

THE HELSINKI FINAL ACT AND HUMAN RIGHTS
IN SOVIET-AMERICAN RELATIONS

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I declare that the following is my own work except where cited otherwise. Any errors contained herein are my responsibility.

SUMMARY

The central argument of this thesis is that accommodation in the field of human rights between the United States and Soviet Union is improbable due to fundamentally incongruous conceptions of the substance and exercise of human rights. The focus of this study is on the human rights provisions in the Helsinki Final Act and in the resultant "Helsinki process" since July 1975. Disagreements on the purpose and content of the Final Act stretch back to 1954 when the first Soviet call for a conference was delivered in order to solidify the territorial and ideological borders in Europe rather than to expand human rights. The lack of consensus on the role of human rights in the Conference on Security and Cooperation in Europe has been an inherent weakness in the "Helsinki process."

Despite the fact that Mikhail Gorbachev, the current General Secretary of the Communist Party of the Soviet Union, has fuelled optimism in the West concerning Soviet conduct in the sphere of human rights, the ongoing changes associated with "restructuring" (perestroika) and "openness" (glasnost) do not exemplify an adjustment in the Soviet view of human rights to conform with Western

definitions of the term. Because these changes have been initiated for specifically Soviet circumstances, human rights will continue to be a major stumbling block in Soviet-American relations into the foreseeable future.

Regardless of American desires to reach a grandiose European accommodation on human rights through the "Helsinki process" and despite American attempts to circumvent specific differences between the Soviet Union and the United States, the issue of human rights is more likely to generate contentiousness and political posturing than concession.

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Editorial Notice:

Throughout this thesis, the transliteration from Russian
to English is based on the Library of Congress system. In
the cases of Russian names, however, the spelling accepted
through common usage has been adopted (such as "Ludmilla"
instead of "Liudmilla"). The citation of governmental
documents conforms to Kate L. Turabian's, A Manual for
Writers of Term Papers, Theses, and Dissertations, Fourth
Edition (Chicago: The University of Chicago Press, 1973).

INTRODUCTION

On 1 August 1985, the 35 nations of the Conference on Security and Cooperation in Europe (CSCE) commemorated the Tenth Anniversary of the signing of the Helsinki Final Act. This was not a celebration of the tremendous accomplishments of the Helsinki process. Indeed, according to most Western accounts, the Helsinki process has been largely a failure; it has not succeeded in defining or perpetuating detente, nor has it established a stable system of cooperation which would enhance security in Europe. The aspects of the Final Act that have aroused the most condemnation, without receiving a corresponding amount of scholarly analysis, have been the sections concerned with cooperation in humanitarian affairs or "human rights." The objective of this study is to fill part of this gap by presenting and analyzing the different perceptions of human rights held by Soviet and American leaders before, during and after the negotiations which culminated in the Helsinki Final Act.

The central argument of this thesis is that accommodation in the field of human rights between the superpowers is improbable due to fundamentally incongruous conceptions of the substance and exercise of human rights. Since the beginning of the CSCE process, there has been

ample evidence to support the proposition that the prospects for either side modifying its view are extremely slim. Despite the fact that Mikhail Gorbachev, the current General Secretary of the Communist Party of the Soviet Union (CPSU), has fuelled optimism in the West concerning Soviet conduct in the sphere of human rights, each superpower is faced with strong domestic and international pressures to remain intransigent in its interpretation and public expression of human rights. Gorbachev has initiated a series of much needed domestic reforms within the Soviet Union, but these changes associated with "openness" (glasnost) and "restructuring" (perestroika) do not exemplify an adjustment in the Soviet view of human rights to conform with Western definitions of the term. Because these changes have been initiated for specifically Soviet circumstances, human rights will continue to be a major stumbling block in Soviet-American relations into the foreseeable future, barring a sudden change in the international environment.

This study, by exploring the significance of different interpretations of human rights, may help to limit unexpected confrontations over human rights or point to the inadvisability of deliberate ones and thereby reduce the likelihood that such conflicts could spill over into other more destabilizing aspects of Soviet-American rela-

tions. Similarly, the evidence presented here should serve to moderate any great expectations concerning a grandiose international accommodation on human rights.

The Helsinki Final Act is chosen for this study because of the intensity of the public debate over that document between the official and unofficial representatives of the United States and Soviet Union. Vigorous debate stemmed, in part, from the ambitious attempts of the Carter administration to interject concerns about human rights into foreign policy-making, specifically into US-Soviet relations. Further controversy was generated by the formation of unofficial "Helsinki Monitoring Groups" in the Soviet Union. The Soviet citizens who formed these organizations provided an interpretation of the provisions on human rights which reiterated the views of the Carter administration and forced the Brezhnev leadership to take an unusually public stand on its view of the content of the human rights clauses.

Since the Helsinki process has become a protracted one which develops through biennial follow-up conferences, this study is also a background case study for future conduct in this sphere. Even if the Helsinki process ultimately fails (most notably, if follow-up meetings are discontinued), the human rights issue will

remain as an ongoing point of contention between the US and Soviet leaders.

The contribution made by this thesis is original in two ways. Firstly, the preponderance of literature on this subject analyzes the human rights debate after 1 August 1975. A fundamental claim of this study is that the evolution of the Soviet-US human rights debate began before the CSCE was actually convened, and that Soviet and American perspectives have remained consistent since early 1965 even though the genre of the debate became more specifically defined thereafter. The main reason why scholars have concentrated on the later years is because the American delegation to the CSCE was rather taciturn on the human rights issue. This, it must be stressed, was due more to the American preoccupation with arms control than to a more conciliatory attitude toward the Soviet interpretation of human rights. Since the debates in the conference revealed more information about the Soviet interpretations of human rights than the American ones, the views of representatives of the United States will be discussed in greater detail here in the context of the post-Helsinki period, but without ignoring the preliminary discussion leading up to the CSCE or the behind-the-scenes support of the American delegation during the early months of the Conference.

Secondly, this thesis aims to move away from the exclusive emphasis on post-Helsinki analysis, because study of the negotiations over human rights in the CSCE itself has been neglected. The fact that these negotiations were largely an extension of positions already revealed before the CSCE is not disclosed in most of the existing literature. For the sake of accuracy and rigour, a more historical approach is used here.

The chronology of the Helsinki process can be broken down as follows: the ground breaking years, 1954-1972; the negotiations and the Final Act of the CSCE, 1972-1975; the period since the culmination of the Final Act leading up to the first CSCE review conference, 1975-1977; and the further follow-up and specialized conferences which have grown out of the CSCE.

Here it should be noted that in method this thesis conforms to the historical-interpretive or "classical" model.¹ It is concerned to explore the sequence of events in the Helsinki process, to suggest why particular negotiating positions of the USSR and USA were formulated the way they were, and to identify the domestic and international pressures behind these positions. To pursue further inquiry, an historical-interpretative account aims to examine an historical problem through a critical and unbiased method of research. This definition does not

isolate history as unique in the social sciences. Rather, it emphasizes that the political historian is reliant on all the social science disciplines when participating in an historical-interpretive study. This monograph is therefore intended to generate interest and debate rather than to act as a definitive account.

Advocates of a stricter so-called "scientific" approach may find this thesis troubling for there is no determined attempt to test hypotheses about behaviour in international affairs or to present statistical-quantitative data to support a "scientific model" for the human rights debate in the CSCE. But the decision to examine the CSCE through "classical" methods, which have been attacked with much vigour by some political scientists since the 1950s, should not be perceived as an assault launched by a humanist against the supporters of the scientific approach. Rather, the "classical" method was used for this thesis for reasons which made the study imminently more practical.

Many of the questions which arise in international relations cannot be neatly tested with precision, especially if historical information is lacking.² The majority of controversial issues stemming from the Final Act are not easily amenable to scientific modelling. These issues include: What is the relationship between indivi-

dual rights and security in Europe? Is the Final Act legally binding? What are the origins of varied interpretations of the Final Act and have these views changed? Are follow-up conferences useful? These questions require a scrutiny of historical events, negotiating positions and responses of citizens in different countries. As will be discussed throughout this manuscript, the Helsinki process is evolving and constant observation and interpretation are vital to the process. This thesis traces the maturation of the Helsinki process, which is still in its infancy, with the aim of providing a historical foundation that future studies may build upon. It would have been hazardous to use a tight conceptual framework to study an international event only in its early stages. In using an approach that J. David Singer has characterized as an "amalgamation of insight with evidence,"³ this inquiry into the controversy over human rights in the CSCE may assist game theorists, systems theorists, rational choice theorists, conflict theorists or others to probe more deeply into the issues discussed here.

The emphasis on quantitative methods in political studies has come on the heels of decades of the "classical" approach, which provided a historical background and pool of information for further political inquiry. The Helsinki process may soon be ripe for more "scientific"

analysis as the amount of data multiplies, as our understanding of historical developments deepens, and the likelihood of making more reasonable predictions increases. Ultimately, this work may prove useful as a case study for scholars who are attempting to formulate an integrated theory of international relations.

However, scientific political analysts may reject much of the information presented here on the grounds that it is insignificant, loaded with value judgements, or too interpretive to be useful in hypothesis testing or in generating generalisations about political behaviour in the international arena. Not all the information in this thesis will be suitable for statistical analysis or the substantiation of propositions. But it would be inappropriate to criticize this historical-interpretive study on these grounds. In political science, the complementarity of the two major approaches is beneficial and the more useful question will be how this study can aid future "scientific" analysis.

The historical-interpretive approach has been open to criticism because some of its advocates have often failed to define terms or make assumptions explicit in their initial studies. The allegation can be levelled at this thesis, but it should be noted that the Final Act itself is, by necessity, extremely vague. Although the

adoption of general definitions could evolve in the long-term, it is possible in the short-term to outline the disagreements over content and to consider the potential for the amalgamation of the varied interpretations. While speculation on future views on the Final Act is emphatically "unscientific," it is nonetheless necessary due to the nature of the CSCE.

Self-criticism is a vital component in the Helsinki process. The signatories to the Final Act agreed to monitor their own compliance but, in order to fulfill that obligation, many political leaders will have to challenge and criticize the earlier negotiating positions of their governments. This is especially true in the case of the Soviet leaders who have admitted only recently their lack of open, critical introspection and have actually encouraged more forums to discuss human rights. The historical-interpretive model is well suited to anticipate potential changes and it is useful also for analyzing unexpected policy shifts.

Moving to the specific sections of the thesis, Chapter One examines "The Road to Helsinki" and is intended to provide an understanding of the objectives of both the United States and Soviet Union in the future security conference. It also points out that there were early disagreements on the purpose of the conference.

Chapter Two concentrates on the Conference on Security and Cooperation in Europe (CSCE), following the negotiations from Helsinki to Geneva and back to Helsinki and examines the ongoing discussions about the need to include humanitarian provisions. This chapter draws on, but attempts to go beyond four monographs published previously. They are: Luigi Vittorio Ferraris's Report on a Negotiation: Helsinki-Geneva-Helsinki, 1972-1975; Kavass, Granier and Dominick's Human Rights, European Politics and the Helsinki Accord; John J. Maresca's To Helsinki: The Conference on Security and Cooperation in Europe, 1973-1975; and Vojtech Mastny's Helsinki, Human Rights and European Security.⁴ The texts by Ferraris and Maresca, who were delegates to the CSCE, offer valuable information on the secret negotiations and diplomatic manoeuvring during the Conference. Mastny and Kavass et al. have reprinted documents produced during the meetings.

This thesis examines the debate over human rights during the CSCE by utilizing these historical monographs. Through matching the personal accounts of Maresca and Ferraris with the previously unpublished documents of the proceedings, it is possible to present a more thorough, although by no means a comprehensive, account of the proceedings and their significance for the resultant Soviet-American debate over human rights. This effort is

further enhanced by the utilization of newspaper reports in the American, British and Soviet press during the CSCE. These articles, essays and interviews shed light on the perceptions and misrepresentations of what was occurring during the Conference.

Chapter Three backs up a pivotal argument in this study that the Soviet view of human rights remained consistent before, during and after the CSCE. It discusses the foundations of the Soviet doctrine on human rights as represented in Soviet theories, policy statements and the 1977 Soviet Constitution.

While the prospects for a change in the official interpretation of human rights in the Soviet Union are minimal, Chapter Four illustrates how, during the Brezhnev years, unofficial groups were active in promoting views which coincided with Western interpretations of the Helsinki Final Act. These groups distributed underground "self-published" (samizdat) material which provided an unofficial translation of the human rights provisions. Specific writings from the "Helsinki Monitoring Groups" will be examined here, but this section also reveals the reactions of Soviet governmental officials to the actions of the dissident organizations.

In Chapter Five, one of the most ambitious attempts by an American president to incorporate ideas of human

rights into foreign policy is outlined. President Carter sought to increase awareness of the growing abuses of human rights in many countries and he alleged that the Soviet Union specifically, was a regular violator of internationally accepted standards of human rights. The CSCE was placed high on the agenda of US-Soviet relations by President Carter who, during his presidential campaign, verbally assaulted President Ford for his complacency on the Soviet record in fulfilling the pledges made in Helsinki. Carter's crusade in the name of human rights was often justified on the grounds that it exemplified an enthusiastic compliance with the Final Act.

Chapter Six on "The Helsinki Final Act into the Gorbachev Era," discusses the vitality of the "Helsinki process," especially through the follow-up procedures and the expansion of specialized conferences which have grown out of the original CSCE. It argues that while fundamental Soviet interpretations have not been modified, in some specific areas (such as in the least ideological category of cultural relations) the Soviet leaders have demonstrated unprecedented flexibility in responding to the requests of Western leaders.

Since Gorbachev has initiated policies which may call past Soviet statements on human rights into question, brief comments on the significance of perestroika

and glasnost' are called for. As recently as the Nineteenth Party Conference in Moscow in June 1988, Gorbachev revealed that restructuring necessitates broader participation by Soviet citizens in administration and politics. He stated:

as conceived by the founders of Marxism-Leninism, management functions should be expanded not by strengthening power resting upon high-handed administration and compulsion, but above all increasing the role of the democratic factor and involving broad sections of the people in administration.⁵

But he also added:

there must be a strict demarcation of the functions of party and state bodies, in conformity with Lenin's conception of the vanguard of society and the role of the Soviet state as an instrument of government by the people.⁶

Other recent statements provide further insight into Gorbachev's "new thinking" on human rights and should temper expectations for a general revision of Soviet human rights policy that would satisfy completely governmental and non-governmental observers in the West.

Also relevant for our purposes here are recent attempts by the United States and West European governments to circumvent the Soviet policy towards activists for human rights. One tactic has been to exchange convicted spies for dissidents. Current policy-makers in the West

appear receptive to this approach, but the long-term consequences of such trade-offs must be explored further.

It should be noted that a detailed examination of the Reagan administration is omitted while specific attention is given to Carter and Gorbachev. As already mentioned, Carter added human rights to his list of foreign policy priorities with more vigor than any other American head of state. This may have been due in part to personal religious convictions. Gorbachev has frequently addressed human rights in his speeches and discussions and he has generated high expectations in the West for major changes in the Soviet human rights doctrine. The Reagan years, however, have not witnessed significant innovations in US human rights policy. President Reagan has supported the "Helsinki process" and he has been outspoken about the energetic role of the US in humanitarian affairs, but US involvement in the CSCE was cemented before 1982 so it would have been politically unfeasible to leave the "Helsinki process" anyway. As will be discussed in Chapter Six, he has sent very vocal delegations to follow-up meetings. He has also kept in place governmental machinery for assessing and promoting a human rights policy. Thus, Reagan's policy on human rights within the CSCE is essentially a continuation of his predecessor's --in some instances, he has even maintained the same personnel. In

his general strategy on human rights, Reagan has placed more emphasis on Central America, especially in his second term, such that further research would more properly be concentrated on this development.

Chapters Four, Five and Six illustrate how, since the mid 1970s human rights have been on the international political agenda in Europe and North America largely due to the Helsinki Final Act. Various spokespersons for the thirty-five participating nations have at least accepted the rhetoric of human rights if they have not incorporated the Helsinki provisions into foreign and domestic policy. Clearly, human rights have become a vital component in East-West relations. Thus it is necessary to explore beyond the negotiations in the original CSCE, as discussed in Chapter Two, and follow the debates as they have evolved since 1975.

The CSCE has acted as a springboard for legitimizing the discussion of human rights, formerly considered an inherently sovereign domestic issue, in a multilateral framework. Because the terminology of the Final Act is so broad, virtually any humanitarian issue may be discussed within the "Helsinki process."

To epitomize the "Helsinki spirit" many nations have gone a step further and have put into place domestic institutional machinery which allegedly assures concrete

compliance with the humanitarian provisions of the Final Act. No nation is legally bound to take these actions, but the political prestige of the document is such that it behooves all the signatories to implement, or appear to apply its provisions. Official institutions in the Soviet Union have addressed humanitarian issues with increasing frequency (official publications have increased twofold since the mid 1970s) and in the United States, the issue of human rights has often taken on a bipartisan quality in Congress. Presidential candidates have felt compelled to include the promotion of the Helsinki principles for human rights on their domestic and foreign policy agendas. Even though President Carter may have accentuated human rights in his administration regardless, the "Helsinki process" assured that he would consider the issue and it did allow him to deflect part of the criticism from Soviet leaders that he was motivated primarily by resentment on ideological grounds. And because of the Helsinki Final Act, Carter was able to argue that human rights were a vital component in detente.

The CSCE itself has established an international forum for examining human rights which has captured public attention far more than other organizations such as the United Nations. This is due, in large part, to the intensity of the public debate in various meetings

centred on human rights within and among the participating nations. Fewer nations (than in the United Nations) are involved in what have become biennial human rights conferences, favouring a more thorough dialogue. And to exemplify truly the "Helsinki spirit," many of the participating nations have applied the provisions to relations with states that have not signed the Final Act and the practice has not been resisted.

The CSCE has set up international structures in international relations for examining human rights and has guaranteed that human rights issues will receive a higher status on the international agenda. The enhanced role of human rights in interstate and intrastate affairs is a major change in international politics. In direct response to the Helsinki Final Act, many governmental officials have established new bureaus and officers in departments concerned with foreign and domestic policy-making and assessment. The "Helsinki process," thus institutionalized, maintains elaborate machinery to fuel the discussion on human rights.

The nature of the link between the "Helsinki process" and the formulation of foreign policies is complex and evades simplistic measurement due to a large number of interacting factors. What can be stressed with confidence is that the Final Act resulted in human rights issues

coming more firmly onto political agendas and with much higher salience than ever before. This heightened exposure was perpetuated through new political fora such as follow-up meetings and specialized conferences. This thesis demonstrates that the "Helsinki process" broadened during the late stages of the original CSCE and in subsequent meetings sanctioned by the Final Act. The foreign policies of Brezhnev, Carter, Reagan and Gorbachev were formulated taking account of this international concern. Chapters Four, Five and Six trace the unanticipated expansion of human rights in foreign policy.

Foreign and domestic policy have been influenced further in the US and Soviet Union by the unprecedented emergence of unofficial monitoring bodies (such as the Helsinki Monitoring Groups in USSR and Helsinki Watch in the US). While primarily concerned with domestic implementation, they have at times stepped into the international limelight to present their data at follow-up meetings. In fact, unofficial monitoring groups in Eastern Europe have recently demanded that they be permitted to attend all follow-up meetings.

However, attempts to place the issue of human rights at the forefront of Soviet-American relations are unwise, especially if linked to other more critical substantive issues. The debate over the human rights provisions of the

Helsinki Final Act has suggested that the Soviet Union and United States have antithetical interpretations of their meaning. There have not, as yet, been significant indications that either side is willing to adapt its view to suit the other. For this reason, the success of the Helsinki Final Act has been limited to generating discussion, debate and argument, not accord.

ENDNOTES

1. The term "classical" that is cited here was used by Hedley Bull. He writes:

I do not mean the study and criticism of the "classics" of international relations, the writings of Hobbes, Grotius, Kant, and other great thinkers of the past who have turned their attention to international affairs. Such study does indeed exemplify the classical approach, and it provides a method that is particularly fruitful and important. What I have in mind, however, is something much wider than this: the approach to theorizing that derives from philosophy, history, and law, and that is characterized above all by explicit reliance upon the exercise of judgement and by assumptions that if we confine ourselves to strict standards of verification and proof there is very little of significance that can be said about international relations, that general propositions about this subject must therefore derive from a scientifically imperfect process of perception or intuition, and that these general propositions cannot be accorded anything more than the tentative and inconclusive status appropriate to their doubtful origin.

Bull, Hedley, "International Theory: The Case for a Classical Approach," in Knorr, Klaus and Rosenau, James N. (eds.), Contending Approaches to International Politics (Princeton: Princeton University Press, 1969), p. 20. For a discussion of the definition of political science and a history of the debate over method see Waldo, Dwight, "Political Science: Tradition, Discipline, Profession, Science, Enterprise," in Greenstein, Fred I. and Polsby, Nelson W. (eds.), Political Science: Scope and Theory, Handbook of Political Science, Vol. 1 (Reading, Massachusetts: Addison-Wesley Publishing Company, 1975). See also, Mayer, Lawrence C., Comparative Political Inquiry: A Methodological Survey (Homewood, Illinois: The Dorsey Press, 1972); Dougherty, James E. and Pfaltzgraff, Robert L., Jr., Contending Theories of International Relations (New York: Lippincott Company, 1971) Holt, Robert T. and Turner, John E., The Methodology of Comparative Research (New York: Collier-MacMillan Limited, 1970); Kaplan, Abraham, The Conduct of Inquiry (San Francisco: Chandler,

1964); Beer, Samuel H. (New York: Random House, 1973); Deutsch, Karl, Politics and Government (New York: Houghton Mifflin, 1970); Charlesworth, James C. (ed.), A Design for Political Science: Scope, Objectives, and Methods, Monograph 6 (American Academy of Political and Social Science: Philadelphia, 1966).

2. Bull, p. 27. Hedley Bull is extremely critical of the "scientific approach." He writes,

In abstaining from what Morton Kaplan calls "intuitive guesses" or what William Riker calls "wisdom literature" they [the practitioners of the scientific approach] are committing themselves to a course of intellectual puritanism that keeps them (or would keep them if they really adhered to it) as remote from the substance of international politics as the inmates of a Victorian nunnery were from the study of sex.

Ibid, p. 26. Bull was roundly criticized however, for, amongst other inadequacies, not really understanding what science was all about. See, Levy, Marion J., Jr., "Does it Matter If He's Naked? Bawled the Child," Knorr, Klaus and Rosenau, James, Contending Approaches to International Politics, pp. 87-109. In discussing the limits of interpretive explanations, J. Donald Moon has written,

From the perspective of political science, the major limitation of interpretative explanations is that they are tied to the explication of particular contexts....Although interpretation serves to lay bare the meanings of things which would otherwise be obscure, to express the particular in terms of the general categories of language and action which the political scientists shares (or comes to share through the process of hermeneutical understanding) with the actors involved, its task is limited to the analysis of historically unique configurations.

Moon, Donald J., "The Logic of Political Inquiry: A Synthesis of Opposed Perspectives," in Greenstein, Fred I. and Polsby, Nelson W. (eds.), Political Science: Scope and Theory, Handbook of Political Science, Volume 1 (Reading, Massachusetts: Addison-Wesley, 1975), p. 182.

3. Singer, J. David, "The Incomplete Theorist: Insight Without Evidence," Knorr, Klaus and Rosenau, James N. (eds.), Contending Approaches to International Politics (Princeton: Princeton University Press, 1969). Singer stated:

My view...is that, as our knowledge base expands and is increasingly integrated in the theoretical sense, the better our predictions will be, and therefore, the fewer policy disagreements we will have. That is, more and more value conflicts will be translatable into the more tractable form of predictive conflicts, thus bridging the gap between fact and value, and liberating our predictions from our preferences.

Singer, pp. 66-7.

4. Ferraris, Luigi Vittorio (ed.), Report on a Negotiation: Helsinki-Geneva-Helsinki, 1972-1975, translated by Marie-Claire Barber (Alphen aan den Rijn: Sijthoff and Noordhoff International Publishers, BV, 1979); Kavass, Igor I. and Granier, Jacqueline Paquin and Dominick, Mary Frances, Human Rights, European Politics, and the Helsinki Accord: The Documentary Evolution of the Conference on Security and Co-operation in Europe, 1973-1975, Vols. 1-6 (Buffalo, New York: William S. Hein and Co., 1981); Maresca, John J., To Helsinki: The Conference on Security and Cooperation in Europe, 1973-1975 (Durham, NC: Duke University Press, 1985); Mastny, Vojtech, Helsinki, Human Rights, and European Security (Durham, NC: Duke University Press, 1986).

5. The New York Times, 29 June 1988, p. 10.

6. Ibid. Gorbachev also has stated that "We need today, as never before, broad and deep integration of all the advanced creative forces of our society. Without this we will not be able to cope with the tasks of restructuring, to resolve the task of raising Soviet society to a qualitatively new level of development. This can be achieved only by the Party, our Leninist Party, which unites all the forces of society." Gorbachev, Mikhail, The Party of the Revolution is the Party of the Perestroika, speech at a meeting with Party veterans, participants in the revolutionary events, front-rank workers and activists of the Leningrad Party Organization, Leningrad, 13 October 1987 (Moscow: Novosti Press, 1987), p. 9.

Chapter 1
THE ROAD TO HELSINKI

The purpose of this chapter is to recount the events leading up to the preparatory meetings of the Conference on Security and Cooperation in Europe in November 1972. A recollection of these occurrences is essential because many of the negotiating positions in the CSCE were shaped well before the Conference began. Since the original call for a European security conference came from the Soviet Union in 1954, the first section will examine the objectives underlying repeated Soviet calls for the Conference. These included: the priority of confirming the territorial status quo; the desire to clarify the role the United States should play in a European security conference; and the need to expand economic cooperation with the West while minimizing the influence of Western ideals and values that would accompany such cooperation.

The second section of this chapter outlines the pressing foreign policy concerns of the Nixon administration on the eve of the CSCE. These were to build upon the gradual improvement in US-Soviet relations; to expand upon an ambitious diplomatic initiative toward the People's Republic of China (PRC); and to end the war in Vietnam.

This section also shows how the Agreement on the Basic Principles of United States-Soviet Relations foretold the initial negotiating positions of the American and Soviet delegations to the first section (The Declaration of Principles) of the Helsinki Final Act. In addition, it points out that Soviet-American relations in the early 1970s were influenced by the priorities of enhancing regional stability and initiating arms control--issues that impacted on attitudes toward the CSCE, either directly or indirectly.

Finally, the last section offers answers to why the American delegation preferred a "low profile" position in the early stages of the Conference. American leaders were reluctant to participate in a European security conference and they certainly were not nearly as enthusiastic as many West European politicians about the benefits of such a meeting. As American and European interests became increasingly disparate, American policy-makers were forced to reevaluate the United States' role in Europe. The issues of American troop reductions in Europe and failure to agree on a new Atlantic Charter exposed the need to redefine the trans-Atlantic relationship.

An outline of Soviet proposals for a European security conference, as well as a presentation of the pressing issues on the eve of the CSCE, provides valuable

understanding of the negotiating positions of the delegations at the Conference. As discussed below, the foundations for both the Soviet and American negotiating strategies were built in this early period.

SOVIET PROPOSALS AND OBJECTIVES FOR A EUROPEAN
SECURITY CONFERENCE, 1958-1972

Although the idea of a pan-European security conference can be traced back to the interwar period, the debate over what eventually became the CSCE really began with a proposal by Soviet Foreign Minister Vyacheslav Molotov at the Berlin Foreign Ministers' Meeting on 10 February 1954.¹ At that time, the primary Soviet concern was the prospect of the Federal Republic of Germany (FRG) entering the North Atlantic Treaty Organization (NATO). It was feared that this would intensify the cold war and sink East-West relations even deeper into the abyss of the problem of a divided Germany. When the FRG entered NATO in 1955, the Soviet leadership sought to prevent the next dangerous escalation, i.e. the FRG's access to, or control of, nuclear weapons. The issue of West Berlin was stirred up again in November 1958 when First Secretary Khrushchev insisted on the suspension of Allied Occupation rights and the institution of a demilitarized "free"

Berlin under the control of the German Democratic Republic (GDR). By August 1961, disagreements over West Berlin resulted in the building of the Berlin Wall by the GDR People's Police and National People's Army. The German Problem became the focal point of insecurity in Europe and the primary cause of Soviet interest in a security conference. Soviet proposals for such a conference were dominated by this issue.

An examination of five proposals, issued between 1958 and 1972, illustrates the early Soviet views on the format and content of a pan-European security conference. These include the Draft Treaty of Friendship and Cooperation Among European States (July 1958), the Bucharest Statement (July 1966), the Karlovy Vary Statement (April 1967), the Budapest Appeal (March 1969), and the Prague Declaration (January 1972). The five statements display a continuity in the pursuit of the following objectives: firstly, the Soviet leaders wanted an agreement with the West European governments that a status quo existed and that the post-World War II territorial borders and ideological boundaries in Europe were permanent; secondly, they hoped that a security conference of exclusively European nations might loosen NATO unity and reduce the American military and political influence in Europe--although this objective was recognized as idealistic rather than imperative; and

thirdly, Soviet leaders reasoned that a security agreement could open the way for improved economic and technological exchange between the countries of Eastern and Western Europe.

Most significant as an indication of future Soviet attitudes toward the inclusion of humanitarian issues in the Helsinki Final Act, was the total absence of a desire to include a principle of freer flows of information and people into a conference for security and cooperation. This would become a serious dilemma for the Soviet leadership because an increase in economic and technological exchange between East and West would inevitably increase exposure to political beliefs and, in Soviet eyes, open Eastern Europe to the subversive ideology of the capitalist countries. Soviet concern over this issue intensified after the Soviet suppression of the Dubcek government in Czechoslovakia in August 1968.² It was also aggravated by Romanian intransigence toward the Warsaw Treaty Organization (WTO), and general instability in Eastern Europe as expectations of a better standard of living increased.³ All of these factors contributed to the Soviet drive for confirmation of the territorial status quo and the ancillary objective of confirmation of the ideological division in Europe.

The Priority of Confirming the Territorial Status Quo

While Molotov's call for a European security conference in 1954 reflected the immediate Soviet concern over entry of the FRG into NATO, later pronouncements by the Soviet leadership, and the Warsaw Pact, spelled out Soviet longterm objectives more clearly. The Draft Treaty of Friendship and Cooperation Among European States of July 1958, authored by the Soviet Union and sent to all European nations plus the United States, included a number of principles which nations could agree to adopt in their mutual relations.⁴ According to the Draft Treaty, all nations should respect the principles of non-aggression, territorial integrity, noninterference in internal affairs and settlement of controversial issues in a peaceful manner. They would also attempt to initiate negotiations leading to arms limitations.

The Draft Treaty also proposed the establishment of a nuclear free zone in Central Europe and intensification of economic, scientific and cultural collaboration. This proposal was especially significant because it hinted at two strategies through which the Soviet leadership would try to cement the post-World War II geographic arrangement in Europe: firstly, by attaining multilateral acceptance of a set of principles governing relations between states,

many of which were included in this draft; and secondly, by ensuring a favourable solution to the German Problem.⁵

But the Draft Treaty was ignored by the West as tension continued to mount in Berlin. In November 1958, Khrushchev issued a virtual ultimatum to the nations occupying West Berlin (the United States, Great Britain and France) to withdraw from that sector of the city. Khrushchev's brashness certainly tarnished Soviet hopes for a security conference, but he did recognize that tensions over Berlin blocked the road to any future European security arrangement. In his own words, Berlin was "a sort of barometer. The slightest fluctuation in the pressure of the world political atmosphere naturally registered at that point where the forces of the two sides were squared off against one another."⁶ More proposals for a European security conference were forthcoming, and Western receptiveness to these initiatives depended, in large part, on a lessening of East-West tension over Berlin.

After Khrushchev was removed from power in October 1964, the idea of a security conference was revived through an East European ally viewed in a more favourable light by West European nations. In a speech to the Nineteenth Session of the United National General Assembly in December 1964, Polish Foreign Minister Adam Rapacki re-

emphasized the interest of the East European nations in such a conference.⁷ The Rapacki Plan (actually the second Rapacki Plan as the first was issued by Rapacki in 1958), and similar statements by First Secretary Wladyslaw Gomulka, stemmed from the longstanding determination of the Poles to receive recognition of the permanence of the Oder-Neisse border.⁸ The special significance of this proposal was that it was the first East European initiative to sanction the participation of the United States and it indicated that overall, the leaders of the Warsaw Pact were in agreement on the primary purpose for convening a conference.⁹

By the summer of 1966, the Soviet drive for multilateral recognition of the territorial status quo was well known. In July of that year the Political Consultative Committee of the Warsaw Pact met in Bucharest and issued a statement overflowing with territorial demands, including: recognition of the existence of two German states with the option of eventual integration of the FRG into the GDR; renunciation of the FRG's claims to represent all of the German people; renunciation of the Munich diktat;¹⁰ discontinuance of pressure on states that recognize the GDR;¹¹ renunciation of claims to redraw the map of Europe; and recognition of the Polish frontier along the Oder-Neisse rivers. This statement rejected the territorial

demands of West German "revanchists" by insisting that "the question of frontiers in Europe has been solved finally and irrevocably...."¹²

The Bucharest Statement outlined the principles of relations between states as in the 1958 Draft Treaty, except for a few interesting additions, such as compliance with independence and national sovereignty, mutual advantage and renunciation of discrimination and pressure against other nations in economic or political relations. Shulman claims that the Romanian delegation in Bucharest was insistent on these principles, and even encouraged diplomatic recognition of the FRG, much to the dismay of the Soviet leadership.¹³ But since the Soviet Union had established diplomatic relations with the FRG in 1955, it is possible that the Romanians considered their action as consistent with Soviet policy. From this point on, much of the focus of the Warsaw Pact would be on its growing internal fissures. In the case of Romania, party chief Nicolae Ceausescu would, in these turbulent years for the Warsaw Pact, issue a "Declaration of Independence" (independence from Soviet suzerainty), refuse to accept Warsaw Pact troops on Romanian soil, and defend staunchly the Czechoslovak Party's right to contemplate and initiate internal reforms in 1968. Also, Romania was responsive to the Ostpolitik campaign which the Soviet leadership

viewed, at least initially, as an attempt to increase the FRG's influence in Eastern Europe, thus undermining the position of the GDR. There is no doubt that all of the above influenced detrimentally the strength of Soviet bargaining positions before and during the CSCE.

Certainly, Romania's subsequent absence from the Communist Party Conference in Karlovy Vary in April 1967, the next major initiative for a European security conference, was symptomatic of the eventual discord between the Soviet Union and Romania over the path to European security.¹⁴

Finally, the Bucharest statement sought to legitimize the status quo through the principles included in the United Nations Charter.¹⁵ The West European nations could have exploited this tactical error by alleging that the existence of these principles in the United Nations Charter questioned the need for another conference and document to reiterate them. Were the nations of the Warsaw Pact dismissing the legality or authority of the Charter?¹⁶ Probably not, since Soviet spokespersons would later cite the Final Act's reiteration of the Charter as one of its most significant aspects.¹⁷ But West European representatives could have used this opportunity to force a discussion of the necessity of reaffirming the principles of the Charter, and to probe deeper to find or publicize the actual objectives of the East Europeans.

Was the European security conference to apply the Charter specifically to Europe? If so, then what was so unique about Europe to necessitate a specific, regional document? Of course, the Soviet response would be that the post-World War II boundaries had not been recognized. At that point, Western commentators could have responded that the United Nations was well equipped to host such a conference. Perhaps the most sensible Western position would have been to seek a statement of compliance with the Charter with a specific reference to Europe. Such an approach would have been advantageous to West European leaders for it would have prevented possible allegations that they were agreeing to a delayed World War II peace conference to confirm controversial acquisitions of territory by the Soviet political and military leaders.

While the Communist Party Conference in Karlovy Vary (24-26 April 1967) echoed the Bucharest Statement, a meeting of the Political Consultative Committee of the Warsaw Pact held in March 1969 indicated a new sense of urgency regarding the issue of territorial confirmation.¹⁸ This conference issued a document entitled the Budapest Appeal that was clearly influenced by the breakdown in relations between Prague and Moscow and the resultant Soviet intervention in Czechoslovakia in August 1968. The Soviet leadership was most concerned about the domestic

reform movement in Czechoslovakia (which officially amounted to replacing democratic centralism with factionalism) and with Dubcek's political and economic bridge-building with the FRG, as well as the possibility of further instability in Eastern Europe. But Soviet armed intervention in Czechoslovakia, even when cloaked under the concept of comradely assistance, appeared to contradict the very principles which the Soviet Union sought to include in a European security conference. Thus, a logical accusation was that the Soviet leadership now desired the conference merely to legitimize what Western analysts called the "Brezhnev Doctrine," which pledged assistance to fraternal socialist nations when threatened by subversive ideologies.¹⁹ In other words, the socialist nations existed in a state of "limited sovereignty" with the Soviet Union. To counter this Western accusation, the Budapest Appeal returned to the Bucharest principles of respect for the independence and sovereignty of states, probably to calm the other East European nations, Romania in particular (in attendance at Budapest).²⁰ Romania would later defend vigorously the principles of sovereignty and national self-determination in the Helsinki Final Act.

A second reason for the urgency of a formal confirmation of the status quo in Europe was the intensification

of border disputes in the Far East and Central Asia, with Japan and China respectively. The territorial aspects of these disputes appeared at first glance to have little to do with the controversy over the borders in Europe. But Western analysts have failed to appreciate that Russian and Soviet leaders have, for centuries, been sensitive to the need to secure their borders in all directions from invasion. In other words, the objective has been and still is to defend a "circular frontier."²¹ Thus, Soviet concern over border areas in the Far East and Central Asia did influence their actions in Europe because of growing anxiety that the Soviet Union was, as has been the historical pattern, fully encircled by hostile or potentially antagonistic neighbours.

In the Far East, for example, Soviet spokespersons continually rejected Japanese claims to the Kurile Islands which the Soviet Union had annexed in 1945.²² The issue was not only a territorial one, for Soviet commentators recognized openly that Japan was second only to the United States in economic power and that the application of the economic resources of Japan to the Japanese military could at some point in the future pose a threat to the defense of the Soviet Union.²³ This concern was exacerbated by the close military links between the United States and Japan and the possibility that Japan might enter into a

trade agreement with China.²⁴ But any future compromise with Japan was ruled out because in the words of Viktor Maevskii:

If any sign appears that the Soviet Union would make concessions to Japan regarding the "northern territories," [Kurile Islands] this would naturally have an impact on the fundamental European problem in the period following the Second World War, namely the territorial questions.²⁵

Thus, Soviet representatives did not interpret border controversies solely on a case-by-case basis. Rather, the Soviet border was, in Soviet eyes, continuous and controversies in one area were bound to affect the resolution of disputes in another.

The most serious of the border quarrels with the Soviet Union was initiated by China. In this case, the potential for a major military confrontation was increasing rapidly. A thorough discussion of the events which led up to the Sino-Soviet division is beyond the scope of this study, but it is relevant to note that the break was solidified by June 1969 when China boycotted the Conference of Communist Parties in Moscow. During one of Brezhnev's speeches to the conference he lashed out at the Chinese leaders for disrupting the unity of the communist movement, for increasing the dangers of nuclear war (China had detonated a nuclear device in October 1964) and for making unjustified claims to Soviet territory.²⁶ There had already been a major Soviet-Chinese

military clash in March 1969, known as the Ussuri River Crisis. On 9 March, Krasnaia Zvezda devoted most of its front page to describing the aggressiveness of the Chinese in the exchange which resulted in the death of a number of Soviet soldiers.

The specific Chinese claims were unclear and are still difficult to determine. Of major interest to the Chinese leaders was the People's Republic of Mongolia, Vladivostok and the Soviet Maritime Province.²⁷ But the Soviet position was reiterated by Foreign Minister Andrei Gromyko in July 1969 when he stated that:

Chinese leaders are advancing territorial claims against the Soviet Union. They allege that the treaties concluded in the past between Russia and China, which clearly established the boundary between the two countries, are unequal. But these are false allegations.... The borders of the Soviet Union are inviolable throughout their whole length, including the frontiers in Central Asia and in the Far East.²⁸

Such statements revealed that the Soviet leaders were unlikely to accommodate the Chinese and the possibility of a larger military engagement between the two nations could not be ruled out completely. This reality must have intensified the desire to make the borders of Eastern Europe more secure. Then the Soviet leaders could concentrate on the 4,500 mile border with China.

The third major factor in the renewed Soviet drive for confirmation of the territorial status quo was the poor performance of the Soviet economy. The conclusion of the Eighth Five Year Plan (1970) confirmed that the 1965 economic reforms were a failure. From 1950 to 1958, the gross national product (GNP) grew by 6.4 percent; but from 1958 to 1967, it slowed to 5.3 percent; and from 1967 to 1973, it slumped to 3.7 percent.²⁹ But how could the Soviet leaders increase economic exchange without expansion of cultural and personal contacts? Recognition of the territorial status quo was, in Soviet eyes, tantamount to acceptance of the ideological status quo--an interpretation continually overlooked in the West. This would, it was hoped by the Soviet leadership, allow expansion of trade with the West without increasing the flow of information about the customs, values or standard of living in the West.

By January 1972, when the Political Consultative Committee of the Warsaw Pact met in Prague, the Quadripartite Agreement on Berlin had been completed (3 September 1971).³⁰ Since the United States would not take part in a European security conference before a German settlement, this was an important breakthrough.³¹ The Prague Declaration supported the "broad peace program" outlined in the Bucharest Declaration and Budapest Appeal, especially the principle of inviolability of frontiers.³² The Soviet position on this

issue would remain consistent up to the preparatory talks in Helsinki in October 1972.

Finally, and ironically, the issue of territorial recognition of the Baltic states (Estonia, Latvia and Lithuania) was rarely mentioned before the preparatory talks of the Conference on Security and Cooperation in Europe. Soviet leaders must have realized that a document which recognized the inviolability of borders would apply to the Baltic states as well as to the nations of Eastern Europe. Perhaps the best indication of the importance of the Baltic states to the Soviet leaders comes from Khrushchev's memories. He stated:

We were all very glad that the Lithuanians, Latvians, and Estonians would again be part of the Soviet State [after Russian seizure in June 1940]. This meant the expansion of our territory, the augmentation of our population, the fortification of our borders, and the acquisition of an extensive coastal frontier on the Baltic Sea....We were absolutely certain that the annexation was a great triumph for the Baltic peoples as well as for the Soviet Union...[because] progressive forces began to promote friendship with the Soviet Union among the masses. After a certain amount of time, the Baltic peoples made known their desire to become part of the Soviet Union. The establishment of Soviet rule was accomplished by democratic methods and in observance of the required judicial formalities.³³

This statement further illustrated the Soviet notion of a "circular frontier," but Khrushchev was determined to emphasize that the annexation was one of mutual consent.

Numerous accounts of the Soviet takeover in the Baltic states relate a very different story which accentuates the deception, intimidation and brutality of the Soviet Party officials and the Red Army.³⁴ Such glaring differences in the interpretation of the historical events assures that the incorporation of Latvia, Lithuania and Estonia into the Soviet Union will remain a controversial issue.

But, as stated above, this was not an issue in the early deliberations over a European security conference. Why not? Most likely, the great emphasis on the borders of Eastern Europe (specifically between the two Germanies) and the Ostpolitik of the Brandt government (discussed below), caused most Europeans to disregard the Baltic states. Moreover, the Baltic states were not in the "Soviet sphere" of Europe, but were made into republics of the Soviet Union. By contrast, the East European nations are genuinely sovereign in a de jure sense. Western leaders could not have seen much opportunity for altering the borders or political status of these countries. Nevertheless, during the CSCE itself, the issue of post-World War II borders was, in large part, a question of Baltic independence. Many individuals in the West who opposed the CSCE claimed that by attending the Conference, Western leaders were sealing the fate of the Baltic republics.³⁵ Most of the criticism came from the 1.6 million Americans of Baltic decent who were concerned that

the official position of non-recognition of the Soviet Baltic republics by the United States was giving way to de facto, if not formal, acceptance of the annexation. In an attempt to calm these anxieties, American Deputy Assistant Secretary of State, Kempton B. Jenkins, later stated that the European security conference would not acknowledge the incorporation of Latvia, Lithuania and Estonia into the Soviet Union, but this issue would be revived once the Final Act had been signed and publicized.³⁶

The United States and a European Security Conference

Alongside the objective of confirming the territorial status quo, the Soviet leadership sought, although with less resolve, to decrease the American presence and influence in Europe, especially in NATO. Soviet positions on the participation of the United States in a European security conference reflected two related, but often contradictory concerns.

On the one hand, Soviet spokespersons called for a conference without the United States in order to preserve the exclusively European nature of detente. They could have argued that detente began in Europe with an improvement in bilateral relations with France and the FRG. Since the United States did not play any major role in these develop-

ments, Soviet leaders may have seen some opportunity to disrupt the unity of NATO. Repeated calls for the total dissolution of NATO, and the WTO, represented the interest of the Soviet leadership in isolating the United States from Europe. Also, the exclusively European nature of such a conference would allow the Soviet leaders to coordinate their strategy with their sometimes unreliable East European partners.

On the other hand, Soviet strategists must have come to the conclusion that a conference to resolve territorial disputes, that is, a delayed World War II peace conference, would have to include the "Big Three" from Yalta (the United States, Great Britain and the Soviet Union) to enhance its political grandeur. Withholding American participation in the conference therefore, may have been a trump card in Soviet strategy to use as a trade off for other exigencies. Furthermore, the growing momentum of American-Soviet detente held out the opportunity of greater economic exchange with the West, as well as a diminution of the threat of rapprochement between the United States and China. And finally, it is often overlooked that detente became a domestic power source for General Secretary Brezhnev who had to contend with inter-party differences in the early 1970s. By 1971, Brezhnev had ascended to his predominant position in the Soviet leadership. He had established an alliance with the military

establishment by increasing defence spending. He had begun to depose persons who were inclined to favour an intensification of the ideological struggle over cooperation with the West (such as A.N. Shelepin and P.E. Shelest). Brezhnev had hoped that such cooperation would increase the possibility of using Western technology to rejuvenate the Soviet economy. To consolidate his political authority further, Brezhnev was succeeding in his attempts to promote his supporters to full membership in the Politburo. For example, during the Twenty-fourth Party Congress of March-April 1971, the Politburo was enlarged to fourteen members from the former composition of eleven individuals. Brezhnev supporters such as A.P. Kirilenko, A.N. Kosygin, N.V. Podgorny and M.A. Suslov had been in the minority of the ruling body, but they quickly became the majority faction with the addition of V.V. Grishin, F.D. Kulakov, D.A. Kunayev and V.V. Shcherbitsky.

Most important of all, Brezhnev became the prominent figure in foreign policy and was then in the position to argue that his domestic policies, especially his increase in military spending, paved the way for detente and the ability of the Soviet Union to negotiate on equal terms with the United States. In this way, detente had become a domestic power source justifying many of Brezhnev's policies. A deliberate attempt to exclude the United States from the CSCE

was bound to damage the emerging, mutually beneficial relationship between the United States and Soviet Union.³⁷

But the presence of American troops on the continent of Europe was a troubling matter for the Soviet leaders. In a speech before the Twenty-third Congress of the Communist Party of the Soviet Union in March 1966, Foreign Minister Andrei Gromyko accused the United States of retreating from its commitment to evacuate American troops from Europe within two years after the end of the war. Gromyko declared:

The United States of America believes for some reason that Europe cannot do without its presence and guardianship without American bases on European soil...the American army is still in Europe and, by all signs, claims permanent status there. But the peoples of Europe are having and will continue to have their say on this score.³⁸

Soviet strategy appeared to advocate the withdrawal of American forces from Europe, dissolution of NATO and the WTO and finally, neutrality for Western Europe (what Kissinger called an attempt to expand "Finlandization"). According to Shulman, the Soviet leadership thought that this format would appeal to the Scandinavian countries, Yugoslavia and Austria, and to progressive parties in the FRG and France. But, unfortunately for the Soviet leaders, it could also appeal to East European nations such as Romania and Poland.³⁹ However, Shulman fails to recognize that dissolution of NATO and the WTO would not be a quid pro quo because a number of separate

bilateral agreements with East European governments would still remain in effect. In other words, the military defence alliances among East European nations would remain in place.

Shulman errs in claiming that the American military withdrawal from Europe was a consistent Soviet objective up until the convening of the CSCE in September 1973. Gromyko's call was less a representation of a long-term policy than a statement timed to coincide with a proposal by United States' Senator Mike Mansfield to reduce the American troop commitment in Europe from 300,000 to 150,000 soldiers. The Soviet position, however, was reappraised at the Twenty-fourth Congress. On 14 March, Brezhnev again proposed a security conference, but also advocated "a reduction of [mutual] armed forces and armaments in areas where the military confrontation is especially dangerous, above all in Central Europe."⁴⁰ This was a clear reversal from the position that only American military withdrawals should occur, to a more flexible posture that suggested that there could be mutual reductions. In other words, it would have been foolish for the Congress of the United States to enact unilateral reductions when there was the possibility of using these troops to reduce the number of Soviet troops in Eastern Europe. Was Brezhnev's offer genuine? Apparently so, because less than three months later, he stated, in reference to force reductions talks, that "you have to muster the

resolve to try the proposal you are interested in by tasting it."⁴¹ This was a call to attempt negotiations.

According to Kissinger, the reversal in the Soviet position was brought about by "the Soviets' cumbersome policymaking machinery...from persistence and brute power, not from strategic vision or even tactical flexibility."⁴² Kissinger goes on to state that "after having raised the issue of troop reductions in Europe at a fortuitous moment in the Mansfield debate, the Soviets as quickly dropped it. Perhaps they regretted the favor they had done us in helping to defeat the Mansfield amendment."⁴³ But this was a calculated shift in Soviet strategy which Kissinger was insensitive to for a number of reasons. Kissinger was interpreting Soviet actions only in reference to the United States. He plainly had difficulty in sensing Soviet concern over the balance of forces in Europe for he interpreted virtually all events in a Soviet-American context. More specifically, Kissinger underestimated the anxiety that the FRG caused for Brezhnev. This latter worry was best expressed by Raymond Gartoff:

It seems clear the Soviet leaders were concerned over the unpredictable consequences of a sudden massive American military withdrawal. Such a move could prompt fears and possibly a turn to militarization in Western Europe, especially West Germany. It could lead to a change in policy in West Germany and the United States about nuclear weapons for Germany. While it might lead some

Western Europeans to be more ready to negotiate on Warsaw Pact terms, it could lead others not to negotiate at all. In any event it seems clear the Soviet action was deliberate, and it was followed by additional indications of a readiness to negotiate.⁴⁴

But both Kissinger and Garthoff neglected to recognize that the Soviet Union was preoccupied with other major problems. After the Ussuri River Crisis in 1969, Soviet military deployments along the Eastern frontier were increased and even though the original diversion did not impinge upon Soviet forces in Eastern Europe, the eventual necessity of relocating even more troops could not be ruled out completely.⁴⁵ Romania's ties to China were growing ever closer, in fact, the Chinese allegedly pledged "fraternal assistance" to Romania in the event of Soviet aggression.⁴⁶ And from April 1969 to September 1971, Soviet troops were occupied in military exercises with Czechoslovakian soldiers as part of a programme of "normalization" of the political climate there. These additional factors help account for Brezhnev's seemingly forthcoming attitude toward troop reductions. And the resultant panic amongst the West Europeans over American troop cuts could only destabilize the military balance in Central and Eastern Europe.

The central issue in these early years of detente was still the German question, with the improving bipolar relationship between the superpowers riding the wave of

Brandt's Ostpolitik.⁴⁷ Detente had begun in Europe and could not survive without continued relaxation of tension in Europe. For this reason, the key to unlocking the door to the CSCE would eventually come down to a resolution between the four powers over jurisdiction in Berlin. The Brandt government's strategy was to negotiate first with the Soviet Union, then with Poland over the Oder-Neisse border and lastly with East Germany.⁴⁸ In August 1970, Prime Minister Aleksei Kosygin and Chancellor Willy Brandt signed a non-aggression pact in Moscow and in November, the Polish-West German Treaty was completed (but not signed until 7 December). A treaty between the two Germanies entailing mutual recognition was not concluded until December 1972.

These events were instrumental in the eventual convocation of the CSCE for a number of interrelated reasons. Firstly, the Soviet Union would not sign an agreement on Berlin without ratification in Bonn of the FRG-Soviet Non-Aggression Treaty. This treaty was important to the Soviet representative because it declared that "peace can only be maintained in Europe if nobody disturbs the present frontiers."⁴⁹ After ratification, this treaty would have ample legal punch to calm Soviet concerns over revanchism in the FRG. But West German politicians soon made the conclusion of a Berlin agreement a prerequisite for ratification of the FRG-Soviet treaty. The agreement on Berlin included the four

major allied powers and secured transit through the GDR to West Berlin; it recognized the close ties between the FRG and West Berlin; and the document asserted that these and other individual and joint responsibilities would remain unchanged.⁵⁰ For the major Western powers, the agreement pledged continued access to, and recognition of, an independent West Berlin. This was why the United States would not participate in a CSCE before an agreement on Berlin.

Thirdly, representatives of the United States (and NATO generally) would not participate in an European security conference until the Soviet Union agreed to participate in talks to reduce conventional forces in Europe.⁵¹ NATO representatives were concerned about Soviet superiority in this area and stated that mutual and balanced force reductions would reduce tensions and decrease the potential for military confrontations. A complicated arrangement was eventually concluded in which the FRG's bilateral treaties and the Final Protocol of the Quadripartite Agreement on Berlin came into force on the same day, 3 June 1972. Nixon and Brezhnev had agreed at the summit in Moscow in May to proceed with both MBFR and CSCE, thus fulfilling all the pre-CSCE requirements.⁵²

Yet, while the preliminaries for the conference were resolved to the satisfaction of the Soviet leaders and the majority of Warsaw Pact governments, there was a clear loser

in these developments: the GDR. There must have been major deletions in the pre-CSCE documents from the perspective of East German politicians. In the case of the non-aggression treaty between Moscow and Bonn, the territorial integrity of the FRG was recognized, while the GDR did not receive a single mention in the document. It appeared as if the Soviet negotiators were willing to discount the immediate interests of the GDR in order to improve relations with the FRG. The Soviet leadership did not even attempt to present a public image that the leaders of the GDR were involved closely in the deliberations. This insensitivity to the public image of the GDR was not evident in earlier negotiations between Moscow and Bonn, such as in the talks of September 1955. These established diplomatic relations between the two nations, thus recognizing the sovereignty of the FRG (probably in return for closer ties in trade), but Khrushchev held firm on the independent status of the GDR and the impossibility of reunification. Yet, West German Chancellor Adenauer did succeed in obtaining the release of 10,000 German prisoners of war in the USSR. The release was announced one week after the meeting, but in a display of loyalty and concern for East Germany, the Soviet leaders claimed that this decision was reached at the behest of the East German rulers.⁵³

Perhaps strategists in Moscow believed that the treaty of 1970 was necessary as a preliminary to a substantive, bilateral treaty between the FRG and GDR. This would help to explain why in a speech to the UN in October 1969, Gromyko stressed the need for improved relations between Moscow and Bonn, but did not urge a similar development between Bonn and East Berlin. Only days later Gromyko and Brandt met to initiate talks which resulted in the non-aggression treaty. Finally, in November 1970, representatives from Bonn and East Berlin met to hold talks. But even then, the East Germans emphasized that the division between the two Germanies was permanent and reunification was impossible. From their perspective, this realization could form the basis for improving relations between them.

With the signing of the Quadripartite Agreement, the sovereignty of the GDR was implied, but still not asserted in strong legal terms. And it included a number of negative provisions for the GDR. For example, the transit routes linking West Berlin and the FRG were secured, but this impinged upon the sovereignty of the GDR by taking the administration of this territory out of the hands of East German officials (aside from inconsequential paperwork). But most problematic of all for the GDR were the humanitarian provisions of the Berlin Agreement. The pledges to allow freer travel had profound results. From the beginning of



1972 to the end of 1973, the number of visitors to the GDR rose from only dozens annually, to nearly 4 million. Similar increases in travel occurred between the FRG and West Berlin.⁵⁴ While these changes may have lessened the tension between the two Germanies, they were negotiated by the Soviet leaders and did not accentuate the sovereignty of the GDR. This may help to explain why, during the CSCE, the East German delegation was the most resistant to including humanitarian provisions and the most insistent on the principles that confirmed the territorial realities in Europe.

Most interestingly, part of the problem faced by the East German leadership was also suffered by the Soviet delegation to the CSCE. That is, the East Germans, in an attempt to attain confirmation of the permanence of their borders, found themselves conceding on humanitarian issues without receiving significant improvements in trade. This was not a dilemma of the East Germans' own making; rather, the Soviet negotiators had imposed this problem on them. But, less than a year later, this precedent would haunt the Soviet leaders when they energetically pursued a multilateral confirmation of the territorial borders. In this sense, the link between these issues was caused as much by the Soviet Union as by the West European nations.

During the controversies surrounding Germany, the statements of Soviet leaders reflected some uncertainty as to whether the United States should participate in an all-European conference on security. According to the Bucharest Statement, "the countries of other continents as well cannot be indifferent to the direction in which affairs in Europe develop."⁵⁵ The Budapest Appeal was also more conciliatory on this matter. But Gromyko's speech to the Twenty-third Congress of the CPSU and the Karlovy Vary communique rejected the presence of non-European states. The matter was firmly resolved by the time that the Prague Declaration invited "the participation of all the interested European states and also the United States and Canada...."⁵⁶

Ultimately, the Soviet decision to accept the participation of the United States in the CSCE was influenced by four factors. Firstly, the growing momentum of Ostpolitik and detente in Europe had solidified the role of the United States in any undertaking designed to improve relations between Eastern and Western Europe. Brandt, and spokespersons for the government of the Federal Republic, went to extraordinary lengths to accentuate the central role of the United States in any long-term improvement in political relations between the Federal Republic and the nations of the Warsaw Pact.⁵⁷ Brandt's treaties with the Soviet Union and Poland were not independent gestures, but rather, they were

part of a more general scheme leading to an agreement on Berlin. If it was recognized that any meaningful resolution on Berlin would have to include the United States, then by implication, a European security conference would require the participation of the United States. Despite concerns over Brandt's bilateral initiative with the East European regimes, Kissinger supported them, probably because they tended to confirm the perpetuity of the presence of the United States in Europe. Of course, Kissinger could have negotiated and resolved the German question in the bilateral forum with the Soviet leaders (and Kosygin had approached him on this), but this would not have facilitated unity in the Alliance.⁵⁸ Thus, the fact that the United States would have to participate in the CSCE became realpolitik for the Soviet leaders, if it had not been a realization much earlier.

A second factor which influenced the Soviet decision to include the United States in the CSCE centered on China. Improving relations between China and the United States strengthened the position of the latter in the debate over what a CSCE should include. The prospect of a Chinese-American "alliance" caused considerable anxiety for the Soviet leadership which was only increased by Chinese links with Albania (although short-lived), Romania and Yugoslavia. Romanian President Ceausescu and Yugoslav Foreign Minister

Tepavac both made state visits to China during the summer of 1971.

The third cause of the Soviet change in attitude was due to the unity of NATO on the European security conference. In order to get their conference, the Soviet leaders would have to concede to a number of NATO demands, including the participation of the United States and a more thoroughly prepared agenda for the CSCE. This reality must have been disheartening to those policy-makers in Moscow who placed the greatest emphasis on "wedge-driving" in NATO because a deliberate attempt to isolate the United States from NATO would certainly spell doom for the European security conference.

Finally, including the United States did not involve any concessions in the area of human rights. Rather, only the West European nations (the West Germans, especially) pressed for agreements on cultural exchanges and the freer flow of information and people between East and West. In fact, the Soviet leaders may have seen the Nixon administration's rejection of human rights in detente as a potential brake on any future West European initiatives to include human rights in the CSCE. During the first summit meeting between Nixon and Brezhnev in Moscow in May 1972, the President addressed the Soviet people on live television and stated that he recognized "the right of each nation to chart its own course,

to choose its own system...without interference from other nations."⁵⁹ This was a statement, from the highest governmental representative of the United States, which included a pledge not to meddle in the domestic affairs of the Soviet Union. And the day before leaving Moscow, Nixon sealed his visit by stating to Brezhnev that:

You have my commitment that privately or publicly I will take no steps directed against the interests of the Soviet Union. But you should rely on what I say in the private channel, not on what anyone else tells you. There are not only certain forces in the world, but also representatives of the press, who are not interested in better relations between us.⁶⁰

Brezhnev must have been at least intrigued if not satiated with this first summit with Nixon because the President recognized not only the superpower status of the Soviet Union, but also the legitimacy of the Soviet political system and its leadership. Nixon wanted a private and personal relationship with Brezhnev.

Less than one month after the summit, there were outward indications that Soviet spokespersons considered Nixon a more "realistic" politician when it came to human rights and ideological competition. In Pravda, the United States Congress was verbally attacked for continuing to support such "subversive" radio stations as Radio Liberty and Radio Free Europe. The article contrasted President Nixon's comments on Soviet television with the broadcasts of these stations which

it claimed could now be relegated to the "graveyard of cold war relics."⁶¹ Thus, it implied that there was a new policy in the United States, at least on this issue. But this is not to say that the Soviet representatives were calling for a total end to the ideological struggle, either.⁶²

It is possible therefore, that the Soviet leaders were not concerned about the United States leading a campaign for principles of human rights in the European security conference. After May 1972, the most likely scenario was that the American representatives to the conference would downplay the need for such provisions. As will be demonstrated in Chapter 2, the support of the United States for human rights in the Final Act was lukewarm in the early stages and visible advocacy of this item on the agenda came very late in the CSCE.

Ideological Security and Economic Cooperation

A European security conference could provide a forum to achieve yet another Soviet objective--the expansion of trade and a harnessing of Western technology. Ideally, the Soviet leadership wanted a statement pledging expansion of East-West trade through two measures: by interjecting a nondiscriminatory most favored nation (MFN) clause into the security agreement; and by recognizing the European Economic Community

(EEC) and the Brussels Commission, but with the stipulation that this gesture of goodwill should be followed by the creation of a broader European trade arrangement (which would include the East European nations).⁶³

This section will outline briefly both the positive and problematic effects of enhanced trade relations between East and West and the Soviet strategy to downplay the latter. Human rights, not yet a major issue in the debate over a security conference, slowly emerged in the context of improved trade relations as a quid pro quo from the vantage point of the West.

Virtually every Soviet proposal for a security conference since the 1958 Draft Treaty included expansion of economic collaboration as an important component. The Bucharest Statement called for strengthening of economic and trade ties and an increase in contacts and exchanges in science, technology, culture and art. Three years later, the Warsaw Pact nations sought to increase economic ties on the basis of respect for the independence and sovereignty of states (influenced by Romania). By the time of the Prague Declaration this had been extended to include the cultural field, tourism and environmental protection. Soviet bilateral treaties with France and the FRG, both in 1970, included many of these provisions.⁶⁴

A wider range of economic cooperation would benefit the Soviet Union by enabling it to take advantage of Western advances in technology and consumer goods and, when applied to industry and agriculture, the new technology could help reduce the economic hardships in East European countries. The severity of the economic problems in Eastern Europe was revealed with increasing clarity in Poland in 1970. Despite the fact that workers' strikes were not permitted, shipyard workers in Gdansk stopped working to protest increases in food prices. When the strikes escalated to violent demonstration, on 17 December 1970, a national state of emergency was declared. The political ramifications were severe as the head of the Polish Workers' Party, Wladyslaw Gomulka, was forced to resign in favour of Edward Gierek. But the official explanation for the price increases provided by Premier Cyrankiewicz, was most revealing for he stated that they were necessary if Poland was to advance economically and technologically.⁶⁵ Given the events of 1970, a broadening of trade with the West may have been an appealing alternative to further price increases. Other possible positive effects of an agreement to increase economic exchange were the lessening of East-West tension and a slowing of the pace of the expensive arms race. And if these did not come about, then at least the technology would contribute to less expenditure on domestic research costs, especially in military research

and development. Brezhnev had also called for agreements on collaborative peaceful nuclear research during the Karlovy Vary Conference.

Richard Davy has argued that the Soviet leadership wanted gradually to disengage from its economic contribution to its East European allies and that this was one method of lessening the burden.⁶⁶ Romania and Hungary, areas of much economic dissatisfaction, but with closer trade ties to the West than the other Warsaw Pact nations, could extend these bonds very quickly. Thus, according to Davy, it was quite likely that the Soviet Union would encourage an increase in trade between its East European allies and the West.

But Davy overestimated the Soviet leadership's flexibility on this issue. The Soviet leaders have not, and will not, strive for improved trade relations under any conditions. Rather, trade agreements must conform to the foundation principles of Soviet foreign policy. Edwina Moreton outlines these as follows:

First, the present communist regimes will oppose any development--internal or external--which in their view threatens to jeopardize the leading role of the party. Second, decisions taken at the domestic level, attempting to resolve the pressures of modernization and adaptation, must not be allowed to threaten the continued existence of the wider ideological community, however loosely defined, of Warsaw Pact states. Finally, any foreign policy decision by other states, including the Soviet Union, that threaten to undermine the pillars of regime

security as defined by the indigenous regimes will be resisted.⁶⁷

In other words, the need to maintain internal doctrine and authority outweighed the desire to increase economic exchange.

Economic improvements in Eastern Europe could merely add to rising expectations, and not just in the economic field. Many East Europeans have desired greater opportunities for travel, as suggested in the Budapest Appeal, and expanded cultural contacts with the West. If these were permitted, then East European resentment of Soviet interference in social and economic reform would probably spark incidents throughout the communist bloc. Disenchantment has frequently spread from one East European country to another--Polish demonstrations in 1956 fueled Hungarian protests and then contributed to the Czechoslovak movement in the late 1960s, which in turn influenced the Polish students' uprising in 1968. These events must have alerted the post-Khrushchev leadership to the dangers of nonconformist ideas on economic as well as political issues. The Soviet Union, faced with a rather unstable Eastern Europe during this period, was especially cautious.⁶⁸

Moreover, the Soviet leadership has not, and cannot, rule by fiat the foreign policies of the East European governments. This should not come as a startling revelation,

especially in the area of economic policymaking, where the Soviet leadership has had to contend with dissent within the Council for Mutual Economic Assistance (CMEA). East European members of CMEA have resisted Soviet campaigns to expand economic support to fraternal developing nations, with clear ideological connotations, in favour of self-centered policies focused on national economic concerns. A growing need for Western technology to improve productivity has led many East European governments to look West rather than East.⁶⁹

But augmentation of trade with Western nations would, by necessity, increase communication, at least for the purposes of organization. Thus, there would be the potential for a freer flow of information about life in Western nations. The countervailing Soviet strategy was to limit contacts to the governmental or institutional level, rather than permit inter-personal contacts that could lead to more thorough discussions of the inadequacies of the East European economies when compared to those in the West. This was not just a preference, but a major objective and stumbling block in the CSCE. Also, any cultural or economic cooperation would have to correspond to existing domestic legislation. At this stage, well before the Helsinki Consultations of November 1972, these were standard precautionary measures used by the Soviet leaders, not unique ideas generated by concerns over the human rights aspects of the CSCE.

Had the Soviet leadership been able to predict that virtually one-third of the future security conference would involve humanitarian concerns (exchange of information, reunification of, and contacts between families, travel for personal or professional reasons), what came to be called "Basket III" provisions, they may have balked at convening such a conference. But drawing away from the idea of a European security conference would not have been an easy matter since the Soviet Union had initially called for a such a conference, attached much propaganda value to it, and had already made it a virtual precondition for enhancing detente. The Soviet leadership must have felt that the matter was still controllable, for the bilateral treaty with France in October 1970 stated that both parties pledged to cooperate actively in United Nations activities for the defense of human rights.⁷⁰ Even the bilateral treaty between the FRG and the GDR, and the Quadripartite Agreement can be viewed as having significant humanitarian provisions as well as political ones. Such token gestures towards human rights were intended to satisfy the most critical human rights advocates in Europe and put the issue to rest.

Finally, by presenting the United Nations provisions as the basis for improving human rights, the Soviet-French bilateral treaty evoked a number of UN documents, especially the Universal Declaration of Human Rights and the UN

Charter.⁷¹ However, from the Soviet vantage point, the humanitarian provisions were to be implemented by each government domestically. Any outspoken assessment of another government's record of adherence is regarded as interference in the sovereign internal affairs of that targeted nation. As will be discussed in Chapter 3, Soviet spokespersons view the principle of non-interference in internal affairs as the basis for international conduct, at least in theory, and overt external concern about human rights in the Soviet Union violates that principle. Ultimately, this led to a major clash during the preparatory conference for the CSCE in October 1972, where it became obvious that the Soviet leadership would oppose any liberalization in the humanitarian field.

UNITED STATES' POLICY TOWARD THE SOVIET UNION ON THE EVE OF THE CSCE

The convocation of the CSCE was made possible due to an unprecedented period of East-West cooperation. This new era, eventually called detente, was an outgrowth of the momentum created by Ostpolitik. But for the United States, specifically the Nixon administration, detente eventually became more of a bilateral relationship with the Soviet leadership

based on the prerogative of settling longstanding differences in Soviet-American relations. President Nixon and National Security Advisor (later Secretary of State) Kissinger accurately perceived that the pressing concerns of American foreign policy involved the Soviet Union, directly or indirectly. In the forefront of the administration's foreign policy where the need to meet with the Soviet leaders, through summit meetings, in order to establish guidelines for detente and to conclude mutually beneficial bilateral agreements; and the need to end the war in Vietnam, build upon the growing relationship with the People's Republic of China and to conclude the Strategic Arms Limitations talks.

All of these foreign policy objectives had been successfully initiated or concluded on the eve of the CSCE. While the CSCE benefited from the emerging detente, the Nixon administration definitely discounted the CSCE as a major foreign policy objective, or even as a desirable one. Rather, it was decided that the growing cooperative relationship between the superpowers meant that it would be prudent to grant to Brezhnev "his" security conference (it became more and more his personal obsession) while exacting concessions from the Soviet leaders for specific American concerns. Finally, an understanding of the minor role of the CSCE in American foreign policy will help to explain why the American

delegation to the CSCE initially opted for a low-profile position, both in supporting Western negotiating positions and in opposing Soviet and East European proposals.

The Agreement on the Basic Principles of Soviet-American Relations

The first Nixon-Brezhnev summit meeting resulted in ten bilateral agreements.⁷² While all of these agreements were significant for Soviet-American relations, one agreement was of special relevance to the upcoming CSCE: the Agreement on the Basic Principles of US-Soviet Relations (or the "Basic Principles Agreement"). The Basic Principles Agreement can be viewed as a direct precursor to the Principles Guiding Relations Between States in the CSCE.

At the culmination of the first Nixon-Brezhnev summit, on 29 May 1972, the two leaders signed a document which emphasized "the common determination that in the nuclear age there is no alternative to conducting their mutual relations on the basis of peaceful coexistence."⁷³ This attempt to codify the rules of behaviour in the improving Soviet-American relationship, although tenuous, was important for the CSCE in four related ways. Firstly, the agreement, with its twelve "Basic Principles of Mutual Relations" did appear to accept the Soviet version of peaceful coexistence (as

presented in the Peace Program launched at the Twenty-fourth Congress of the CPSU in March 1971). American and Soviet negotiators, who had completed the document in Moscow before the summit, committed the two nations to "normal relations based on the principle of sovereignty, equality, non-interference in internal affairs and mutual advantage." The parties also agreed "to promote conditions in which all countries will live in peace and security and will not be subject to outside interference in their internal affairs." These were precisely the principles sought with much vigor by the Soviet delegation at the CSCE. It was somewhat prophetic that given the seemingly lackadaisical acceptance of the agreement by the United States, the American delegation at the CSCE would not object vociferously to a restatement of these principles in a multilateral forum.

Secondly, the especially vibrant presentation of the Basic Principles Agreement by the Soviet leaders may have surprised the American policy-makers, who viewed it as of minimal significance compared to the other bilateral agreements negotiated that year. While American policy-makers did strive for a codification of the rules of detente, it appears that they did not view the Basic Principles Agreement as a dramatic breakthrough in this area. Conversely, the Soviet Ministry of Foreign Affairs had placed the Basic Principles Agreement high on its list of priorities.

The Foreign Ministry had directed the newly created Department for Planning Foreign Policy Measures (UPVM), and within it the USA Division, to formulate the substance of the principles.⁷⁴ Following the successful conclusion of the summit, half the members of the USA Division received special merit promotions. But much more significant, the members of the UPVM's USA Division were later given a leading role in formulating Soviet policy in the CSCE and the director of UPVM, Deputy Foreign Minister Anatoly Kovalev, would head the Soviet delegation to the CSCE. Kovalev would supervise both the principles in the CSCE, as well as the human rights debate in Basket III of the Final Act.⁷⁵

Thirdly, it is clear the Basic Principles Agreement meant something quite different to the Soviet and American leaders respectively. For the Soviet Union, it confirmed their superpower status and their right to negotiate on equal terms with the United States. The agreement meant that guidelines for future Soviet-American cooperation were established, but it was still very unclear what sort of cooperation would take place. For this reason, it was less a rulebook for detente than a statement of the way detente might proceed. Perhaps the most frequently overlooked aspect of the Basic Principles Agreement for the Soviet leadership is that it was, in large part, a legitimizing agent for the Brezhnev government. On 2 June 1972, Pravda printed a joint

statement by the Politburo of the Central Committee of the CPSU and Presidium of the USSR Supreme Soviet, and the Council of Ministers, which noted the special significance of this agreement:

The document...adopted in Moscow, creates prerequisites in international law making it possible to build ties and cooperation between the two countries in all fields of mutual interest on a firm, long-term basis, without in any way harming the interests of third countries. The consistent realization of these principles in the political practice of the two states will promote the further normalization of Soviet-American relations and the improvement of the international situation as a whole.⁷⁶

Why was this so important for the CSCE? Because the Basic Principles Agreement must be viewed as the first step in the drive for recognition of the political and territorial status quo, a drive which culminated in the Helsinki Final Act. With bilateral recognition of the legitimacy of Soviet claims to superpower status, the next step would be to achieve recognition, in a multilateral forum (which would have to include the United States) of the East European regimes, with the ancillary confirmation of the legitimate interests of the Soviet Union in that sector of Europe.⁷⁷

Fourthly, the omission of principles directly related to human rights in the Basic Principles Agreement reflected the views of the Soviet Union, and early on, the United States, on the exclusion of such provisions from the CSCE. When

pressed on this issue later in the CSCE, the Soviet leaders nostalgically referred to the Basic Principles Agreement as a solid foundation for a similar agreement in the CSCE's multilateral forum.⁷⁸ Similarly, it was clear that the Nixon administration did not consider human rights a realistic priority issue in interstate relations.⁷⁹ Numerous authors have alleged that the lack of a firm human rights policy was a basic weakness in Kissinger's foreign policy.⁸⁰ But, with regard to the CSCE, the lack of a public human rights effort probably facilitated the smooth interjection of human rights issues into the CSCE by other Western and neutral nations, later supported by the United States. Obviously, the Soviet leaders did not expect the human rights issue to take on such significance. For this reason, it may have been the very "crackpot realism and machismo of the Nixon administration,"⁸¹ so criticized by one cynic, that facilitated the formulation of some of the most influential human rights principles in diplomatic history.

In conclusion, while it may be true that:

of the Soviet-American bilateral agreements concluded in 1972, by far the most important were the Treaty on the Limitation of Anti-Ballistic Missile Systems, the interim agreement...on certain measures with respect to the limitation of strategic offensive arms....and the three-year grain agreement....⁸²

the Basic Principles Agreement was one of the most significant for the CSCE. Having been completed only six months before the preparatory meetings for the CSCE, it served as an indication of Soviet objectives in the upcoming conference. The agreement was also a partial blueprint for the Declaration of Principles in the Helsinki Final Act. Since the negotiators for the United States had not shown interest in principles such as broader exchanges of information or freer travel between Eastern and Western Europe, the Soviet representatives to the CSCE certainly would not expect the American delegation to push for them there. And, as Soviet statements suggested, the two countries had entered a new era in relations and, if the Basic Principles Agreement was the new code of conduct, then the Soviet leadership may have concluded, quite logically, that the United States would support a reaffirmation of these guidelines in the multilateral forum of the CSCE. In these various ways, the CSCE was an extension of the discussion that had resulted in the Basic Principles Agreement, or so it seemed to Soviet strategists. Conversely, Nixon and Kissinger were far more concerned with other domestic and foreign policy matters to attach such significance to this aspect of the first summit.

The Pressing Foreign Policy Concerns of the Nixon Administration

Throughout 1972 and 1973, the Nixon administration was too busy with ongoing foreign policy matters to have much interest in, or time for, a thorough discussion of the potential of a European security conference. During this active period of American foreign policy, Nixon and Kissinger dealt with three overriding concerns: firstly, the growing need, for domestic as well as foreign policy reasons, to attain "peace with honor" in Vietnam; secondly, related to the American drive for peace in Vietnam, to strike an accord for productive relations between the United States and PRC; and finally to complete the ongoing round of arms talks with the Soviet Union with signed SALT agreements. The Nixon administration's ability to satisfy these three objectives produced an atmosphere conducive to American participation in the CSCE.

President Nixon's principle foreign policy preoccupation from 1969-1972 was ending the war in Vietnam. The American strategy had undergone a metamorphosis beginning with overambitious attempts to apply linkage (with arms control, trade and detente in general) to the Soviet Union to influence Soviet restraint during the slow American withdrawal from Vietnam. This early policy gave way to a more

pragmatic approach based upon the belief that neither the Soviet Union nor China could directly control the decisions made by the North Vietnamese, but could exert some influence.⁸³

What influence the Soviet leaders could use on the North Vietnamese was tested in 1972, again with a deliberate linkage policy. In March, two months before the Nixon-Brezhnev summit, the United States and North Vietnam escalated their conflict following a North Vietnamese offensive into South Vietnam. Kissinger, alleging Soviet complicity in the offensive, began a diplomatic counterattack designed to strike back in the Soviet Union's own backyard. He informed the Soviet leaders that such actions would damage detente in Europe. Kissinger then wrote to Egor Bahr, advisor to West German Chancellor Willy Brandt, stating that he "doubted the value of a policy of detente in these circumstances." More importantly, Kissinger was convinced that:

Bahr, with the ratification of Brandt's Eastern treaties hanging in the balance, was certain to convey these sentiments to the Soviet Ambassador in Bonn. And Moscow would be reminded that we were not without means of pressure.⁸⁴

As stated earlier, without ratification of the treaty between Moscow and Bonn and the Quadripartite Agreement, the CSCE would never get off the ground.

Kissinger, in defiance of Nixon's instructions, also expressed doubts about the possibility of holding a summit in such circumstances. Here again, the CSCE would be in jeopardy for the summit was a vital transitional step toward American agreement to attend the CSCE. While Brezhnev claimed to have had no part in the North Vietnamese offensive, he did send a senior official specializing in affairs with communist countries, Konstantin Katushev, to Hanoi. Even though these gestures did not lessen the intensity of the fighting in Vietnam, they did hint at Soviet willingness to moderate its support for the North Vietnamese.⁸⁵ Just before the May summit, President Nixon felt it was necessary to increase substantially the bombing attacks on Vietnam and to mine Haiphong harbour. The Soviet leaders did not cancel the summit, Nixon and Brezhnev reiterated their positions on Vietnam, and the immediate impediments to European detente, and more specifically the CSCE, were removed.⁸⁶

Was it Brezhnev's primary concern to make concessions in order to obtain a European security conference? Probably not. While it is impossible to determine precisely his motives, it seems likely that Brezhnev wanted a summit to expand Soviet-American relations on a broad scale. Aside from the aforementioned agreements facilitated by the summit, Brezhnev may have seen two other pressing reasons to show Soviet flexibility before the summit. Firstly, 1972 would be

a re-election year for President Nixon, and no doubt, Kissinger's announcement that peace was at hand (October 1972) aided Nixon's popularity. Brezhnev viewed Nixon as someone with whom he could negotiate, so another term for the American president must have appealed to him.⁸⁷ And secondly, Soviet disengagement from North Vietnam was liable to have a positive influence on attitudes within the United States, especially in the Senate, where any future Soviet-American arms control or trade treaties would be sent for ratification. Whatever Brezhnev's motives, events in Vietnam after Summit I would no longer have a detrimental influence on preparations for the CSCE.

Another possible motive for Brezhnev's conciliatory actions in the spring of 1972, was his concern over the growing rapprochement between the United States and the PRC. Nixon had just returned from his first trip to Peking, in February 1972, before the Kremlin revealed a more conciliatory attitude toward the United States in the months of March and April.

President Nixon had listed initiation of relations with the PRC as a primary goal of his foreign policy.⁸⁸ The Chinese had been interested in improvement of Sino-American relations since the Twelfth Plenum of the Chinese Communist Party in October 1968, although Chinese support for the North Vietnamese had postponed this process until Kissinger's

secret trip to Peking in July 1971. Nixon's first visit to China (before visiting the Soviet Union) from 21-28 February 1972 came after an agreement to ease trade restrictions on China and began an American commitment to withdraw American forces from Taiwan. With the Soviet and Chinese leaders still divided by an ideological schism, that was re-enforced by a controversy over territory, the United States became the arbiter of triangular diplomacy.

Despite the adversarial relationship between the PRC and the Soviet Union, American policy toward both nations was based on a common objective--to facilitate regional stability. Nixon presented his concern as follows:

The principles underlying our relations with Communist China are similar to those governing our policies toward the USSR. United States policy is not likely soon to have much impact on Chinese behavior, let alone its ideological outlook. But it is certainly in our interest, and in the interest of peace and stability in Asia and the world, that we take what steps we can toward improved practical relations with Peking.⁸⁹

The Soviet leadership was especially concerned about Chinese gestures toward the United States and this apprehension indirectly accelerated detente in Europe. To begin with, discussions between Kissinger and Chinese representatives had been held in secret and the extent of their understandings was unknown. Was a Sino-American military alliance possible? Soviet spokespersons were in fact uneasy about this and

repeatedly warned Nixon and Kissinger of the dangers that would result from such a development.⁹⁰ The outbreak of hostilities between India and Pakistan in November 1971 had simply added to these anxieties. Additional Soviet forces were moved to the border with China, ostensibly to occupy Chinese troops that otherwise could be used to intervene on the side of Pakistan. Ultimately, the dispute was resolved due largely to an improvement in relations between Moscow and New Delhi, but the region could not be considered stable and American interests there were still not clearly defined.

In terms of ideology, Soviet commentators emphasized the potential dangers of China's "leftist" interpretation of Marxism-Leninism, which was actually labeled "anti-Soviet," and they stressed that imperialists in the West were simply using Soviet-Chinese differences "to vilify the socialist social system and the ideals of communism."⁹¹ This was an attempt to show that closer ties between the United States and China would hinder the development of world socialism much more than they would damage Soviet national interests. Then in one of the most blatant examples of disagreement over territorial borders, the Chinese leaders printed a new atlas of China in July 1972 which simply incorporated disputed territory into the PRC.⁹² The prospects for achieving a confirmation of borders in Eastern Europe must have appeared much more favourable than the likelihood that the Soviet and

Chinese leaders could quickly resolve their differences. In fact, the Chinese were even accused of trying to disrupt the relaxation of tension in Europe and planning to sabotage the security conference.⁹³

But were Soviet strategists worried that the Chinese would use their closer ties to the United States to sour the American desire to attend a European security conference? Soviet statements did not reflect this apprehension outwardly, but it is plausible that this was at least a consideration. Overall, the improvement in Sino-American relations, in tandem with the deterioration of Sino-Soviet relations, led to an intensification of Soviet efforts to solve the pressing problems in Europe and to convene the CSCE.⁹⁴ One way of making the CSCE more palatable to the American leaders was to make headway in arms limitations talks.

The arms limitations process, begun in earnest in November 1969, occupied a central role in both the initiation and continuation of detente up to the convocation of the CSCE. Since the Nixon administration wanted arms limitations, it had formally recognized that the Soviet Union had attained parity with the United States in the size of its nuclear arsenal. This acknowledgment was important for there was no longer any doubt that the Soviet Union was a co-equal superpower and that it possessed the political and military clout to press for initiatives like a European security

conference. The American and West European leaders would always have to weigh the possible negative consequences of rejecting Soviet proposals against the potentially detrimental results of accepting Soviet overtures. The successful conclusion of the first phase of the SALT negotiations, culminating in the SALT I agreements (the Anti-Ballistic Missile Treaty and the Interim Agreement), put into motion the last series of events that led up to the first official CSCE meeting in Helsinki in November 1972. During the summit in May, when the SALT agreements were signed, the leaders of the two superpowers agreed to proceed with preparations for the CSCE "without undue delay."⁹⁵

This is not a study of the plethora of arms limitations proposals dealt with during this active period of Soviet-American negotiation. Such analysis is not necessary as both the United States and the Soviet Union were in full agreement that a future CSCE should not include any elements of nuclear arms control. Rather, the objective here is to illustrate that the CSCE was very low on the Nixon administration's list of foreign policy priorities. With the SALT process in full swing, Kissinger was very reluctant to grant the Soviet leaders their "pet project of the European Security Conference."⁹⁶ Still, it was, in part, the very momentum of the SALT process that eventually led the American leadership to view the CSCE as a necessary concession to the Soviet Union.

The indifference toward the CSCE, compared to the publicity over SALT, is described by one career diplomat as follows:

When Nixon reported to Congress that the United States and the USSR had agreed to proceed "later this year" with multilateral consultations leading to a CSCE, no one appeared to notice--the other aspects of the developing relationship between the two superpowers completely overshadowed this relatively minor announcement.⁹⁷

In describing the successful development of Soviet-American relations in 1972, Kissinger placed SALT second on the list of accomplishments, preceded by the Berlin Agreement and followed by Soviet restraint in the Middle East and Vietnam, and the wide range of technical and other bilateral agreements.⁹⁸ But even though Kissinger believed that the Berlin Agreement was the Administration's most important achievement, he did not consider it valuable in paving the way for the CSCE. Unlike the SALT negotiations, the European security conference would be held in a multilateral forum and Kissinger seemingly preferred to keep discussions on major issues in East-West relations in the bilateral or "four-power" context. The most significant agreements, according to Kissinger's assessment above, were similar in a way that Kissinger did not reveal; they were all accomplished with an absolute minimum of participating nations. Thus, Kissinger's view of the CSCE, which would include over thirty

nations, was largely negative. It is also clear that Kissinger regarded the CSCE as the result of Soviet persistence. He stated:

Like drops of water on a stone, Soviet repetitiveness has the tendency sooner or later to erode the resistance of the restless democracies...the desire for agreement encourages constant pressures to find at least something in the Soviet position to accept. So it was to some extent with the idea of the European Security Conference. Disparaged in the Fifties, rejected in the Sixties, it finally began to gain acceptance with the passing years by default, as it were.⁹⁹

The firmly held belief in the United States that a European security conference would benefit only the Soviet Union led Nixon and Kissinger to downplay the agreement to begin preparations for convening the conference. Whether deliberate or coincidental, the upstaging of SALT facilitated this task. Soviet spokespersons added their own commentary on the "special significance" of the disarmament negotiations and they claimed that, given goodwill and a "realistic" approach, further arms limitations could be concluded.¹⁰⁰ In stating that the American leadership should be more realistic, Soviet commentators meant that the Nixon administration had received a large portion of what it truly wanted and it should therefore have supported other negotiations, such as the CSCE, which were of special interest to the Soviet Union. The matter-of-fact assessment from the Soviet perspective was that the discussion was no longer about the idea of a

security conference because it was obviously a quintessential part of detente. The only controversial negotiation was over the suitable dates.¹⁰¹

Finally, the successful SALT negotiations, conducted in Helsinki, as well as in Vienna, presented Helsinki in a favourable light in the selection process for the site of the CSCE. This important symbolic precedent was influential in the unanimous decision to hold the two ceremonial sessions of the CSCE in Helsinki as well.

THE UNITED STATES AND WESTERN EUROPE

ON THE EVE OF THE CSCE

While Soviet-American relations continued to improve during the period leading up to the CSCE, relations between the United States and the West European governments suffered through a phase of mutual suspicion and introspection. On the one hand, the growth of detente led some European leaders (especially Pompidou and Heath and to a lesser extent Brandt) to fear that Europe was being sacrificed by Soviet-American accommodation. On the other hand, the Nixon administration had long been concerned about unilateral initiatives by European governments towards Moscow, especially since Brandt's Ostpolitik campaign. Kissinger argued that

independent gestures could only damage the Atlantic alliance and its ability to present a unified front in the face of Soviet challenges.¹⁰² In his estimation, the United States should have spoken for the Alliance.

The increasingly strained relationship between the Americans and Europeans was displayed through two major controversies; firstly, through the growing pressures in Washington, represented by the views of Senator Mike Mansfield, to reduce the number of American troops in Europe by fifty percent, which ultimately hastened the convening of the MBFR talks; and secondly, through the suspicion, defensiveness and animosity brought on by Kissinger's allegedly good-natured "Year of Europe" initiative. Even though many authors have been unable to explain why the delegation from the United States presented a "low-profile" position at the CSCE, the answer must rest in the events leading up to, and resulting from, this period of difficult relations among the allies.

The Alliance Under Strain: Troop Reductions and MBFR

From 1970, the United States' strong position on the eventual convocation of a European security conference was that such a conference could occur only after a Berlin agreement and at the same time as negotiations aimed at the

reduction of Warsaw Pact and NATO forces in Europe. Calls for the beginning of these negotiations, which became the Mutual and Balanced Force Reduction talks, emerged from Soviet-American bilateral meetings and from meetings of the NATO Foreign Ministers in the North Atlantic Council.¹⁰³ Pressures arising from American domestic sources to reduce the American military commitment in Europe strained Alliance relations in two major ways: firstly, by sending a signal that the European members of NATO should increase expenditure on defense at a time that European economies could least absorb the additional expense (regardless of European Community cooperation); and secondly, by unearthing the traditional suspicions of Alliance and non-Alliance members of the alleged selfish national interests of their fellow European governments.

Ironically, the sensitivity of European governments to the political, economic and military aims of their fellow Europeans dovetailed with similar concerns in Moscow. While the bilateral treaties between France and the Soviet Union, and between the FRG and Soviet Union served to build more trust betwixt the nations, they also tended to generate suspicions about the devotion of these governments to their respective formal, or informal alliances. And if the leaders of the United States decided to reduce the number of troops stationed in Europe, these suspicions could have prevented

the governments of the Alliance from agreeing on a general response to compensate for the loss. This may have culminated with military build-ups in individual West European nations, thus making reductions even more difficult for the Soviet leaders. For this reason, the MBFR talks were viewed as a necessary brake on the momentum for unilateral American troop reductions by both the Soviet and West European governments. This view extended to the CSCE where the territorial and military situation in Europe would be solidified.

In February 1969, President Nixon embarked upon his first foreign trip as President. It took him to Brussels (to address the North Atlantic Council), London, Bonn, Rome and Paris and was generally successful in building upon the longstanding Alliance relationship. According to Kissinger:

He [President Nixon] had set out to establish a new relationship of confidence with the European leaders. He had succeeded within the limits of what was possible in one trip. He had sought to get the United States out of intra-European quarrels. Progress had been made in all these respects. He had to some extent calmed European fears of US-Soviet collusion at their expense [in fact, he had not, as the "Year of Europe" initiative would display]; he had warned against detente for its own sake as raising the danger of complacency. He had emphasized the need for equitable burden-sharing in the NATO and for adapting Alliance doctrine to new realities. A start had been made toward a new spirit of consultation.¹⁰⁴

Kissinger's optimism about a "new spirit of consultation" was entirely premature, especially regarding the debate over sharing the burden of defence in NATO. The idea of a security conference was much more appealing to the European governments than a proposed four percent increase in defence expenditure for the members of NATO. The Warsaw Pact leaders, aware of European hesitancy to increase defense spending, rejuvenated the idea of a European security conference at a meeting of the Political Consultative Committee in Budapest on 17 March (the "Budapest Appeal"). On 3 April, the Soviet Ambassador to the United States, Anatoly Dobrynin, submitted the proposal to the White House directly, through a confidential channel, in which he emphasized that the Soviet Union would not object to the participation of the United States.¹⁰⁵

The most significant aspect of this early exchange was that it revealed the different objectives of the European governments and the United States. Kissinger, rather annoyed, wrote:

Brandt favored a European Security Conference for the strange reason that it would legitimize the American presence in Europe. Pompidou embraced it as a means of avoiding separate German overtures toward the East and absorbing them in a multilateral framework. British leaders advocated it as a means to transcend the Cold War.¹⁰⁶

But it is difficult to comprehend why Kissinger would not be supportive of these objectives. After all, Brandt's determination to maintain US troops in the FRG proved that Ostpolitik was not a policy contrary to the interests of the Alliance. In the case of Pompidou, a renewed French interest in participating in any multilateral framework in Europe, regardless of the cause of the change in attitude, should have been welcomed. And the fact that British leaders were optimistic about the possibility of lessening the intensity of the Cold War could hardly have been problematic.

On the more negative side for the United States, a common European perception was that a lessening of tensions in Europe could have the desired effect of lowering the required ceiling of defence spending on conventional arms, while relying ever more on the American nuclear umbrella. These views were common even though they did not confront the dilemma of how nuclear retaliation could be threatened in response to potential Soviet aggression when the Soviet Union had, by this point, reached nuclear parity with the United States. For the Nixon administration, faced with pressure to reduce the American military commitment in Europe, a European security conference could serve as a bargaining chip for MBFR talks, or at least as a foundation on which detente could be strengthened, bringing the possibility of such negotiations a step closer.¹⁰⁷

These issues were revived with more controversy in May 1971, when US Senate Majority leader Mike Mansfield unearthed his proposal to reduce the number of American forces in Europe by fifty percent to 150,000. Support for what the administration considered an attempt to apply "the Vietnamization process" to Europe, stemmed from a determination to reduce overseas expenditure in response to a massive balance of payments deficit (as well as the political clout carried by Mansfield himself). After a week of political maneuvering, the Mansfield Amendment was defeated, due in part to Brezhnev's indication, as discussed earlier, that the Soviet Union would consider multilateral troop reduction talks.

Kissinger emphasizes that the debate on the Mansfield Amendment added impetus to MBFR negotiations, but also exposed the difficulty of enhancing West European security through troop reductions. Reductions would have to be asymmetrical to be truly balanced given the Warsaw Pact's numerical advantage and the Soviet ability to reinforce the Pact at short notice.¹⁰⁸ Soviet commentators complained about calls for unequal reductions at ratios of 1:3, 1:4 or even 1:6. From their perspective, the reductions should have been based upon the principle of parity. In an attempt to deflect momentum for MBFR talks, the proper forum for these negotiations, according to one Soviet spokesperson, was the

upcoming European security conference.¹⁰⁹ Obviously, this was simply an effort to focus more attention on the CSCE because, once the security conference had begun, the Soviet press complained about "certain Western countries" that wanted the conference to take up the military aspects of security. Representatives from NATO were chided for trying to establish a connection "between two important but assuredly independent questions [MBFR and CSCE]."¹¹⁰ Essentially, this was one way ultimately to prevent the Western nations from making progress in MBFR a pre-requisite for progress in CSCE.

In the context of West European relations, any substantial American troop reduction was sure to arouse French suspicions of the FRG's allegedly independent rapprochement with Moscow, especially since the French were insistent that they should play the leading role in coordinating European unity. NATO foreign ministers, meeting in Lisbon, advocated MBFR, which was tied to the convocation of the "Soviet sponsored" CSCE, despite Soviet efforts to prevent linkage.

MBFR talks finally began on 31 January 1973. The Nixon administration had defeated the Mansfield Amendment for unilateral troop reductions and initiated multilateral troop reduction talks. Had the Mansfield Amendment been approved by Congress, it would have spelled doom for the CSCE and possibly SALT and the Berlin talks. The sequence of events that would have resulted due to a partial American military

withdrawal would have led to a period of destabilizing military adjustments in the West European countries. Only after these changes had occurred could there have been negotiations on military and political issues in Europe. And the consequences for Alliance unity in such circumstances would have been overwhelmingly negative. For these reasons, the Nixon administration correctly viewed the issue of troop reductions as a much more immediate challenge to the cohesion of the Alliance and of far greater significance for military stability in Europe than the CSCE.

The Alliance Under Strain: The Year of Europe Initiative

While the Nixon administration's concern for the Mansfield Amendment explains its active role in advocating MBFR rather than the CSCE, a far less understood issue revolves around the "low profile" position adopted by the American delegation at the CSCE in its early stages. A member of the Italian delegation to the CSCE noted his surprise over the following:

the attitude of the United States, namely, the tendency of Kissinger to consider the CSCE as an exercise, at best significant for public opinion, but certainly not as an essential component of the substantial makeup of the process of detente. This attitude of detachment which was ostentatiously displayed by the American delegation for the entire duration of the Helsinki Consultations [22 November 1972 to 8 June 1973], instead of

favouring the maneuvering [sic] of the negotiations, inevitably became an incentive for the smaller countries of Western Europe to consider themselves as the real balancing factor of the Conference with regard to the firm position of the Soviets....¹¹¹

Soviet writers also commented on the larger role played by the smaller nations of Europe.¹¹² This function would become especially important in the latter stages of the Conference.

The attitude of detachment, which typified the American role in the CSCE during its first two years, has never been fully explained in any study of the CSCE. But the answer lies in the ambitious overture, launched by Kissinger in April 1972, which went entirely sour; namely the "Year of Europe" initiative. In the view of this author, the American delegation to the CSCE was suffering from the total failure of the initiative to solidify the moral and political common interests of the United States and the West European governments.

Furthermore, Kissinger's failed "Year of Europe" initiative appears to have left him with three conclusions about the CSCE: firstly, the United States could not act as the motivator or coordinator of European unity; secondly, the CSCE, favoured more by West Europeans than Americans, could possibly serve to solidify the Alliance, with the United States participating, but playing a much more indirect role; and thirdly, the United States' function as the second

superpower in the conference should be to act as a "behind the scenes" force (through bilateral negotiations) to guarantee that the Soviet Union did not bully the smaller European nations into accepting an essentially Soviet-tailored agreement. Although Kissinger himself has never outlined the negotiating position of the American delegation to the CSCE in these early stages, these three working principles intertwine with Kissinger's preference for the back door channel of communication to Moscow, and they help to explain why the American delegation to the CSCE arrived without any instructions of any kind and was generally headed by lower level officials.¹¹³

According to Nixon and Kissinger, 1973 was to be the "Year of Europe." The dramatic initiative to begin a new era in Alliance relations was launched (insensitively) from New York by Kissinger in a speech to the Associated Press on 23 April 1973. Kissinger called for a new Atlantic Charter and a reaffirmation of the bonds between the United States, Western Europe and, ironically enough, Japan (unquestionably, a non-European nation). The "Year of Europe" would, it was hoped, prepare the nations of Western Europe and the United States for an era of coordinated policy of mutual benefit reminiscent of the European recovery program launched by the US Secretary of State George Marshall twenty-six years earlier.

Outwardly, Kissinger's concern fell into two major areas. First of all the unilateral gestures by European governments toward the East threatened to undermine the ability of the West, with the United States as spokesperson, to present a unified front (politically and militarily) to the Soviet leadership. Nixon, as well as Pompidou and Heath, was especially disturbed over the policies of Willy Brandt. In his view, a Germany, freewheeling between East and West, posed a classic challenge to equilibrium in Europe.¹¹⁴

Kissinger writes:

We sought to discourage the Europeans from unilateral initiatives to Moscow by demonstrating that in any competition for better relations with Moscow, America had the stronger hand.¹¹⁵

This was Kissinger's version of Jean Monnet's call for a more aggressive American role in tearing down traditional European nationalistic tendencies in favour of a unified Europe (Monnet had established the Action Committee for the United States of Europe in 1955). But it is unlikely that Kissinger would have seen the CSCE as facilitating the guiding role of the United States in Europe.

Secondly, Kissinger was concerned with a growing tendency toward "Europeanism" at the expense of "Atlanticism," reflected in the apparent inclination of European leaders to favour political stability in Europe over improved ties with the United States whenever a conflict between the

two objectives emerged.¹¹⁶ Again, this was especially true in the case of the FRG, but Kissinger also implied that this reasoning was used in the West European interest in a security conference. In fact, this was the most controversial area of the "Year of Europe" speech in which Kissinger stated that the:

United States has global interests and responsibilities. Our European allies have regional interests. These are not necessarily in conflict, but in the new era neither are they automatically identical.¹¹⁷

European leaders interpreted these words as confirming the minor role that the European governments could play in superpower relations.

The same attitude was presented one year earlier in a speech by Assistant Secretary of State for European Affairs, Martin Hillenbrand, to Congress on 25 April 1972:

The [European security] conference can constitute a modest step forward within the broader and long range process of negotiation intended to lead toward more stable East-West relations--even though representatives of some thirty states of diverse interests and regimes cannot directly address the central problems of European security.¹¹⁸

This statement can be read as implying that such problems can only be addressed in the superpower forum. Indeed, Hillenbrand could have cited the ten agreements reached at the May 1972 meeting of the superpowers as evidence of the most efficient way to settle longstanding differences in East-West

relations. Using this reasoning, which was quite sound, the significant negotiation would have to occur after the CSCE between individual governments.

But the most important motivation for Kissinger's speech, and one that he does not readily admit to, was economic. This was the concern over the growing strength of the European Economic Community and the blossoming economic growth of Japan. The Japanese were making inroads into the market place in Europe and the United States which resulted in lobbies of various domestic industries pressuring their respective governments to initiate restrictions or to complete more beneficial trade agreements. European leaders were well aware of the ongoing economic difficulties in the United States and many viewed the initiative as purely selfish. The pro-American Raymond Aron wrote in Le Figaro in February 1973: "Never have the Americans imposed on their allies and partners with so much brutality and good conscience...."¹¹⁹ Aron's comments proved that this sentiment was broadly based and that it was inevitable that at times American national interests would conflict with the desires of individual European governments. This was yet another reason for the US delegation to play a lesser role in the CSCE where the concerns of many other nations would be at stake.

The "Year of Europe" initiative did not elicit an organized European response, or a forum for further discussion, let alone a draft document on a new Atlantic Charter. There were primarily three reasons why it failed and these same problems plagued trans-Atlantic relations on the eve of the CSCE. Firstly, European leaders, especially Pompidou, never overcame the suspicion of a Soviet-American condominium in Europe. Nixon was even accused of merely adding a card to his hand (a united Europe card) to use against Brezhnev in their next summit.¹²⁰ Combined with Pompidou's vigorous defense of French national sovereignty, as well as his foreign minister's drive to establish a leadership role in Europe for France, and Heath's anxiety about being labeled as America's Trojan horse in Europe, the distance between European and American perceptions of the new trans-Atlantic priority was widening rather than narrowing.

Secondly, a new leadership role in Europe for the United States was impossible given the cancer of the Watergate affair. On the day following Kissinger's speech, Nixon's two top advisors, John Ehrlichman and H.R. Haldeman, were forced to resign. To European leaders, a closer relationship with Nixon was becoming more a political liability than a diplomatic asset. In fact, Nixon's planned trip to Europe in 1973 was cancelled as the heads of the European governments

refused to meet with him. He could have met with foreign ministers only.

And finally, it became obvious that the interests of the United States were not identical with the interests of one, let alone all, of the European governments. Trans-Atlantic unity under the banner of the Marshall Plan had given way to the protectionism and domestic priorities of the ten member European Economic Community.

In conclusion, the failure of the "Year of Europe" initiative had a profound influence on the American negotiating position at the CSCE. The United States would not be able to act as the spokesperson for European interests. Rather, the United States' early function in the CSCE would be to act as the second superpower and to defend very general Western interests from a Soviet onslaught. In this way, the American delegation to the CSCE would adopt a "low-profile" negotiating position.

CONCLUSION

This chapter has presented three central arguments about the period leading up to the CSCE. Firstly, the Soviet objectives for the conference remained consistent from 1954 up until the Helsinki Consultations in November 1972. Soviet spokespersons were very open about their desire to confirm

the territorial status quo (which, in their view, also legitimized the ideological and political division) in Europe. Improved political relations would, it was hoped, facilitate broader economic and technological exchange. And the desire to maintain the status quo in Europe led the Soviet leadership to downplay an earlier objective--isolating the United States from a European security conference. Also, it was felt that any attempt to decrease the American role in NATO might possibly have the side effect of rekindling the national self-assertiveness of many of the European nations, especially in the FRG.

Secondly, as the United States and the Soviet Union were enjoying an unprecedented era of fruitful negotiation, President Nixon and National Security Advisor Kissinger placed greater emphasis on the bilateral superpower relationship. The American leaders attempted to link this emerging relationship with Soviet restraint in regional conflicts where the United States had a political or military concern. The European security conference was extremely low on the Nixon administration's list of foreign policy prerogatives. Human rights played no part in the administration's foreign policy decisions. The only human rights debate to come out of this period revolved around the Trade Act of 1972 (discussed in Chapter V), but even this debate involved the narrowest of human rights issues--Jewish emigration.

Thirdly, the indifference of the Nixon administration to a European security conference was complemented by a difficult period in trans-Atlantic relations. Tension over potential American troop withdrawals and the need to redefine NATO defense strategy, mutual trade protectionism, and the difficulty of intermeshing national concerns with a united Alliance policy, caused the American leadership to balk at proposing another initiative like the "Year of Europe." In any case, the Watergate affair could only damage the administration's ability to conduct a consistent foreign policy. All of these factors accounted for the inactivity of the American delegation in the early stages of the CSCE.

In conclusion, this brief examination of American and Soviet priorities in the period leading up to the CSCE displays the absence of human rights from the agenda of either nation. Neither superpower could have predicted the dramatic human rights debate that would take place in the CSCE. The Soviet leaders would get "their" security conference, but it would not take on the form that they desired.

ENDNOTES

1. Bussman, Bernard, "A European Security Conference," Survival, Vol. 12, no. 13 (March 1970), p. 81.

2. According to Hans Morgenthau, the primary reason that the Soviet Union invaded Czechoslovakia was to make certain that Dubcek did not find further appeal in the ideological and economic policies of the FRG, thus abandoning the bloc politically. Morgenthau's view warrants serious consideration when one considers that on 31 January 1967, Romania established diplomatic relations with the FRG, a move that was opposed by both the East German and Polish leadership. Romania's closer ties to the FRG must have made East European leaders sensitive to Dubcek's intentions. Morgenthau, Hans, "Inquisition in Czechoslovakia," New York Review of Books (4 December 1969) pp. 20-1. For indications of this possibility in Soviet literature see Pravda, 28 August 1968 and 26 September 1968.

3. Viktor Suvorov, allegedly a high ranking Red Army officer that defected to the West, has written that many soldiers in the Red Army believed that preparations in the summer of 1968 were for a Soviet invasion of Romania. After all, Soviet intelligence had reported that Romania was selling parts to Israel to repair Soviet-built tanks captured in the Sinai. In addition, when Romania bought military helicopters from France, the Romanian leaders refused to let Soviet military intelligence officers examine them. According to Suvorov, such unco-operative actions led many army officers actually to get used to the idea that "Romania was allowed to do anything that she liked, that she could take any liberties that she pleased." Arkady Shevchenko has related that before major votes in the United Nations General Assembly, the Soviet delegation would call a meeting of its allies to outline the Soviet stand. Romania was the one nation which would often express reservations. Suvorov, Viktor, Inside the Soviet Army (New York: MacMillan Press, 1982), pp. 6-11. Shevchenko, Arkady, Breaking with Moscow (New York: Knopf Publishers, 1985), p. 142.

4. The Times, 21 July 1958, p. 6.

5. Birnbaum, Karl E., "The Member States of the Warsaw Treaty Organization (WTO) and the Conference on Security and

Cooperation in Europe (CSCE): Current Preoccupations and Expectations," Cooperation and Conflict, Vol. 9, no. 1 (1974), p. 31.

6. Talbot, Strobe (ed. and trans.), Khrushchev Remembers (Boston: Little, Brown and Company, 1970), p. 453.

7. Winiewicz, Jozef, "Security and Cooperation." Polish Perspectives, Vol. 14, no. 5 (May 1971), pp. 3-7. There is a debate over whether the Rapacki Plan was a truly independent initiative. One school of thought claims that it was, Rotfield, Adam, From Helsinki to Madrid: Conference on Security and Cooperation in Europe (Warsaw: Polish Institute of International Affairs, 1983), p. 16. According to Rachmaninov, J., Problema evropeiskoi bezopasnosti Moscow: Novosti Press, 1979) the proposal was "in agreement with the other member-states of the Warsaw Treaty." pp. 242-3.

8. Pravda, 9 April 1965, pp. 1-3 in Current Digest of the Soviet Press, Vol. 17, no. 14 (April-July, 1965), pp. 8-10. This point was stressed during personal interviews of Polish political scientists visiting the University of Pittsburgh during the summer of 1986.

9. Later statements would advocate exclusion of the United States.

10. On 29 September 1938, Hitler persuaded France, Britain and Italy into signing the Munich Agreement which conceded to Germany the district of the Sudetenland. The Munich Agreement ultimately led to the destruction of the Czechoslovak state in 1939 and was never formally repealed.

11. This was an attempt to nullify the West German "Hallstein Doctrine" of non-recognition of governments which recognized East Germany.

12. Pravda, 9 July 1966 in Current Digest of the Soviet Press, Vol. 18, no. 27 (July-October 1966), p. 4.

13. Shulman, Marshall D., "A European Security Conference," Survival, Vol. 11, no. 12 (December 1969), p. 375. Originally in Europe-Archiv, Vol. 19, 1969. A copy of the Romanian proposal for a European security conference is in Ecobescu, Nicolae and Celac, Sergiu, "Security and Cooperation in Europe," Survival, Vol. 13, no. 6 (June 1971), pp. 203-7. Reprinted from Lumea (Bucharest) 28 January and 4 February 1971.

14. On 7 May 1967, Ceausecu defended emphatically his absence from the meeting at Karlovy Vary by stating that "each communist party has the legitimate right to participate in an international meeting...just as it has the legitimate right not to participate." This quote is cited in Jones, Christopher, Soviet Influence in Eastern Europe (New York: Praeger Publishing Company, 1981), p. 96. See also Sharp, Jane M.O., "Security through detente and Arms Control," in Holloway, David and Sharp, Jane, The Warsaw Pact: Alliance in Transition? (Ithaca: Cornell University Press, 1984), pp. 165-73. Also, Garthoff, Raymond L., Detente and Confrontation: American-Soviet Relations from Nixon to Reagan, (Washington: The Brookings Institution, 1985), pp. 106-26.

15. Goodrich, Leland Matthew, Charter of the United Nations: Commentary and Documents (New York: Columbia University Press 1969).

16. While Soviet spokespersons accept the legality of the Charter, Georgi Arbatov has alleged that the United Nations is vulnerable to American attempts to spread propaganda under the protection of the "freedom of information clause." Arbatov, Georgi, The War of Ideas in Contemporary International Relations: The Imperialist Doctrine, Methods and Organization of Foreign Political Propaganda (Moscow: Progress Publishers, 1973), p. 205.

17. Mazov, V.A., Printsiipie Khel'sinki i mezhdunarodnoe pravo (Moscow: Nauka, 1980), pp. 35-8.

18. Pravda, 25 April 1967, pp. 1-3 in Current Digest of the Soviet Press, Vol. 19, no. 17 (April-July 1967), pp. 5-11. Also Pravda, 27 April 1967, p. 1 in Current Digest of the Soviet Press, Vol. 19, no. 17 (April-July 1967), pp. 12-13.

Kovalev, An. "Za razriadku napriazhennosti i bezopasnost' v Europe," Kommunist, No. 5 (March 1969), pp. 92-103. Also, Pravda, 18 March 1969, p. 1 in Current Digest of the Soviet Press, Vol. 21, no. 11, pp. 11-12.

19. For a Soviet description of the doctrine see, Tunkin, Theory of International Law (London: George Allen and Unwin, Ltd., 1974), p. 62.

20. Supra, note 13.

21. This phrase was coined by Valentine Tschebotarioff-Bill to emphasize not only that "from the earliest days of

Russia's history, the concept of the frontier has played an important role in the life of the country," but also that despite the changes in the frontiers, there has been a "simultaneous drive in different directions, with multifarious aims and motivations" subsumed under the primary objective of securing or expanding territory. Tschebotarioff-Bill, Valentine, "The Circular Frontier of Muscovy," The Russian Review, Vol. 9, no. 1 (January 1950), pp. 45-52.

22. Pravda, 26 November 1970, p. 4 in Current Digest of the Soviet Press. Vol. 12, no. 47 (22 December 1970), pp. 15-16.

23. Iatyshev, I., "Diplomatiia Tokio: Novye Orientiry," Mirovaia ekonomika i mezhdunarodnye otnosheniia, no. 5 (1970), p. 50-1. Also see, Pravda, 18 May 1970, p. 5.

24. Izvestiia, 17 December 1969, p. 5 in Current Digest of the Soviet Press, Vol. 21, no. 51 (20 January 1970), p. 24.

25. Pravda, 10 February 1970, p. 4.

26. Pravda, 8 June 1969, pp. 1-4 in Current Digest of the Soviet Press. Vol. 21, no. 23 (2 July 1969), pp. 10-12. Also see Pravda, 14 June 1969, pp. 1-2 in Current Digest of the Soviet Press, Vol. 21, no. 24 (9 July 1969), pp. 9-13.

27. The territorial disputes are longstanding. In 1919, the controversial issues became the status of Soviet conquests in Manchuria, the Chinese Eastern Railway and the stationing of Soviet troops in Outer Mongolia. A Sino-Soviet treaty was signed on 24 May 1924 in which the Soviet representative seemingly recognized outer Mongolia as sovereign, but in the 14 February 1950 Treaty of Friendship, Alliance and Mutual Assistance, Mao apparently conceded the independence of the Mongolian People's Republic which, in real terms, meant that it should remain under Soviet suzerainty. As for Mao's writings, they are unclear. See, Schram, Stuart, Mao Tse-tung (Middlesex: Penguin Books, 1971), pp. 255-6. Also see, Khrushchev, Nikita, Khrushchev Remembers, translated by Strobe Talbot (Boston: Little, Brown and Co., 1970), p. 474.

28. Izvestiia, 11 July 1969, p. 1 in Current Digest of the Soviet Press, Vol. 21, no. 28 (6 August 1969), p. 8. Interestingly, Soviet representatives have compared the threat from China to former Japanese military aggression. In one analogy, a Soviet author recalled the militancy of the

Japanese when occupying Manchuria in 1938. But, in what may be interpreted as a warning to the Chinese, he recalled that the Japanese army was defeated when attempting to cross the Mongolian frontier in August 1939. See, Mezhdunarodnaia zhizn' (August 1969).

29. Nogee, Joseph L. and Donaldson, Robert H., Soviet Foreign Policy Since World War II (New York: Pergamon Press, 1984), p. 250.

30. The Berlin Settlement, The Quadripartite Agreement on Berlin and the Supplementary Arrangements. Press and information Office of the Government of the Federal Republic of Germany, Bonn (1972).

31. For the United States' demand that a Berlin settlement precede the CSCE see, The Times, 15 May 1959, p. 12 and 2 December 1971, p. 6.

32. Soviet News, 1 February 1972 (London: Embassy of the Soviet Union), p. 37.

33. Khrushchev, pp. 148-9.

34. For useful accounts of the period leading up to Soviet annexation, the Nazi occupation and developments after the Second World War see, Gerutis, Albertas (ed.), Lithuania: 700 Years (Woodhaven, NY: Manyland Books, 1969); Kalme, Albert, Total Terror: An Expose of Genocide in the Baltics (New York: Appleton-Century-Crofts, 1951); Sabaliunas, Leonas, Lithuania in Crisis: Nationalism to Communism, 1939-1940 (London: Indiana University Press, 1972); Schwabe, Arveds, The Story of Latvia and Her Neighbours (The Scottish League for European Freedom. Perth, Scotland: Munro Press, n.d.).

35. The New York Times. 18 May 1975, p. 16; 20 April 1975, p. 12; 19 June 1973, p. 16.

36. Ibid, 20 April 1975, p. 12.

37. For a more thorough discussion of intra-Party differences during this period see, Breslauer, George W., Khrushchev and Brezhnev as Leaders: Building Authority in Soviet Politics (London: Allen and Unwin, 1982), pp. 179-99; Cohen, Stephen F., Rethinking the Soviet Experience: Politics and History Since 1917 (New York: Oxford University Press, 1985), pp. 139-57; Gelman, Harry, The Brezhnev Politburo and the Decline of Detente (London: Cornell

University Press, 1984), pp. 105-73; Steele, Jonathan, The Limits of Soviet Power: The Kremlin's Foreign Policy--Brezhnev to Chernenko (Middlesex: Penguin Books, Ltd., 1985), pp. 51-69.

38. Pravda, 30 March 1966 in Current Digest of the Soviet Press, Vol. 18, no. 12 (January-April 1966), p. 12.

39. See Shulman, note 13. The Soviet fear of the adverse effects of neutralism led them to hesitate to accept Finland's offer to host the CSCE. See The Times, 9 May 1969, p. 9. The Soviet preference was probably Austria.

40. Pravda, 15 May 1971. Related in Garthoff, p. 115.

41. Ibid.

42. Kissinger, Henry, White House Years (Boston: Little, Brown and Co., 1979), p. 947.

43. Ibid., p. 948.

44. Garthoff, p. 116. He also cites Pravda, 11 June 1971. John Erickson writes that the "reduction of United States military power in Europe has never ceased to be a Soviet objective, yet this has been pursued in a curiously contorted manner through negotiations over Mutual and Balanced Force Reductions (MBFR). These negotiations were designed to constrain the Bundeswehr and to tie in a constructive American link, working to put a brake on unilateral American withdrawal, yet at the same time trying to maintain a form of mutual deterrence between West Germany and the Soviet Union." Richard Pipes agrees when he states that the Soviet leaders fear "a German-French-English military alliance that might spring into existence should US troops withdraw precipitately from Western Europe." See Erickson, John, "The Warsaw Pact: From Here to Eternity?" Current History, Vol. 84, no. 505 (1985), pp. 357-60, 387. Pipes, Richard, US-Soviet Relations in the Era of Detente (Boulder: Westview Press, 1981), p. 83.

45. According to David Holloway the increase in the Soviet military commitment along the Chinese frontier began in 1966 after a defense Pact between Mongolia and the Soviet Union. Then the number of divisions increased from 15 to 30 between 1968 and 1970. By 1973, the Soviet leaders had increased this number to 40. Holloway, David, The Soviet Union and the Arms Race, (London: Yale University Press, 1983), p. 86. Similar figures are cited in Whiting, Alan,

"Sino-American Military Relations," in Levine, Herbert M. (ed.), World Politics Debated: A Reader in Contemporary Issues, (New York: McGraw-Hill, 1983), p. 350.

46. Gottlieb, Thomas, Chinese Foreign Policy and the Origins of the Strategic Triangle. RAND Corp., R-1902-NA (November 1977), pp. 84-86.

47. Kissinger argues that he was authorized to "backstop the Berlin negotiations with Soviet Ambassador Anatoly Dobrynin." Kissinger, Henry, Years of Upheaval (Boston: Little, Brown and Co., 1982), p. 156. But Kissinger also states that Ostpolitik "could in less scrupulous hands turn into a new form of classic German nationalism." White House Years, p. 409.

48. Garthoff, p. 108.

49. Federal Republic of Germany-Union of Soviet Socialist Republics: Non-Aggression Treaty (Moscow, 12 August 1970) in 9 International Legal Materials 1026 (1970). See also, French-Soviet Declaration (Moscow, 13 October 1970) in 9 International Legal Materials 1165 (1970); Federal Republic of Germany-Poland: Treaty Concerning Basis for Normalizing Relations (Warsaw, 18 November 1970) in 10 International Legal Materials 127 (1970).

50. France-Union of Soviet Socialist Republics--United Kingdom--United States: Quadripartite Agreement. The American Journal of International Law, Vol. 66 (1972), pp. 242-253.

51. New York Times, 6 December 1969, p. 1 and 14; 28 May 1970, pp. 12-13; 5 December 1970, p. 5.

52. Kissinger, White House Years, p. 948-9. Also, Department of State Bulletin, Vol. 73 (1975), p. 197.

53. Dallin, David J., Soviet Foreign Policy After Stalin (Philadelphia: Lippincott, 1961), pp. 261-9.

54. McAdams, A. James, East Germany and Detente: Building Authority After the Wall (New York: Cambridge University Press, 1985), p. 119.

55. Supra, Note 12.

56. Supra, Note 32.

57. Brandt, Willy, A Peace Policy for Europe, translated by Joel Carmichael (New York: Holt, Rinehart and Winston, 1969), pp. 75-84; Brandt, Willy, "West Germany: Policies for the Future." Speech delivered to the German Bundestag, 28 October 1969. Vital Speeches of the Day, Vol. 36, No. 4 (1 December 1969), pp. 105-114; Dahrendorf, Ralf (Parliamentary State Secretary in the Federal Foreign Office) "German "Ostpolitik": Appeasement or Detente?" Speech delivered to the Consultative Assembly of the Council of Europe in Strasbourg, 22 April 1970. Vital Speeches of the Day, Vol. 36, no. 17 (15 June 1970), pp. 517-20; Schmidt, Helmut, "Germany in the Era of Negotiations," Foreign Affairs, Vol. 49, no. 1 (October 1970), pp. 40-50.

58. Kosygin's letter, urging a bilateral discussion between the superpowers over Berlin, was received by Nixon on 27 May 1969. A formal proposal was made by Dobrynin on 20 October. Kissinger then recommended to Nixon that "we discourage the notion of bilateral talks. The Soviets would only use them to stir up suspicions among our allies. We would do best to keep this issue in the regular Four-Power forum for the moment..." (p. 146). Kissinger continues by stating that "it seemed to me important to work with Brandt rather than against him....[He] would stay in close consultation with us and...we would cooperate with him." (pp. 411-12). Kissinger, White House Years. See also, Richardson, Elliot I. (United States Under Secretary of State). "United States and Western Europe: Security." Speech delivered to Chicago Council on Foreign Relations, 20 January 1970, Vital Speeches of the Day, Vol. 36, no. 9 (15 February 1970), pp. 259-60; New York Times, 22 October 1969, p. 12. For commentary reflecting concern that Brandt's policies were incompatible with the interests of the United States see, Bertram, Christoph, "West German Perspectives on European Security: Continuity and Change," The World Today, Vol. 27, no. 3 (May 1971), pp. 115-131; Brzezinski, Zbigniew, "America and Europe," Foreign Affairs, Vol. 49, no. 1 (October 1970), p. 21.

59. New York Times, 29 May 1972, p. 3. During the first summit, Nixon stated to Brezhnev: "It is true that I have a strong belief in our system...but at the same time, I respect those who believe just as strongly in their own systems. There must be room in this world for two great nations with different systems to live together and work together." Nixon, Richard M., The Memoirs of Richard Nixon (London:Arrow Books, 1979) p. 611.

60. Nixon, p. 617.

61. Pravda, 18 June 1972, p. 4 in Current Digest of the Soviet Press, Vol. 24, no. 24 (12 July 1972), p. 6 and 10. The phrase "graveyard of cold war politics" was first used by Senator Fulbright during the debate over this issue.

62. Pravda, 8 July 1972, p. 1 in Current Digest of the Soviet Press, Vol. 24, no. 27 (2 August 1972), pp. 30-1. This article called for the intensification of the class struggle and the exposure of bourgeois propaganda.

63. Supra, note 32.

64. Summary of World Broadcasts--The Soviet Union (The British Broadcasting Corporation), Second Series, SU/3532 (12 November 1970) Broadcast from Moscow in French for Europe, 17.30 GMT 10.11.70, pp. A1/2-A1/3.

65. New York Times, 21 December 1970, pp. 14-18. Also, Yearbook of International Communist Affairs (1978), p. 63.

66. Davy, Richard, "The ESC and Politics of Eastern Europe," The World Today, Vol. 28, no. 7 (July 1972), p. 289.

67. Moreton, Edwina, "Foreign Policy Goals" in Holloway and Sharp, p. 144.

68. Bromke, Adam, "The CSCE and Eastern Europe," The World Today, Vol. 29, no. 5 (May 1973), pp. 196-206. Also Brown, Archie, "Eastern Europe; 1968, 1978, 1988." Daedalus, Vol. 180, no. 1 (Winter 1979), pp. 151-74. Moreton states that "In sum, the major problem facing all the East European regimes during the 1960's and 1970's in the transition to "developed socialism" has not been the world outside but the adaptation of political structures and the maintenance of party authority and control in the face of increasingly complex economic tasks and in the light of the Soviet Union's self-appointed role as arbiter of bloc orthodoxy." Ibid, p. 144.

69. Dean, Jonathan, "The Warsaw Pact in the International System" in Holloway and Sharp, pp. 238-61.

70. Summary of World Broadcasts--The Soviet Union (The British Broadcasting Corporation), Second Series, SU/3508 (15 October 1970) Home Service Broadcast in Russian, pp. 41-6.

71. United Nations Charter, Article 2, section 7. See, Lacquer, Walter and Rubin, Barry (eds), The Human Rights Reader (Mass: Meridian, 1979). Also, John, Louis B. "The Human Rights Law of the Charter," 12 Texas Journal of International Law 129 (1977).

72. Some of the less recognized agreements include: Agreement on Cooperation in the Field of Environmental Protection, 23 May 1972, 11 International Legal Materials 761 (1972); Agreement on Cooperation in the Field of Medical Science and Public Health, 23 May 1972, 11 International Legal Materials 766 (1972); Agreement on Scientific and Technical Cooperation in the Field of Peaceful Uses of Atomic Energy, 21 June 1973, 12 International Legal Materials 905 (1973).

73. "Text of Basic Principles, May 29," Department of State Bulletin, Vol. 66 (26 June 1972), pp. 898-9. See also, Garthoff, pp. 290-8.

74. See Garthoff, p. 294, UPVM--Upravlenie po plannirovaniu vneshno-politicheskikh meropriatii.

75. To the authors knowledge, Kovalev's role in both the Basic Principles agreement and the CSCE has never been exposed.

76. Pravda, 2 June 1972, p. 1 in Current Digest of the Soviet Press, Vol. 24, no. 22 (28 June 1972), p. 25. On 15 June, a commentator in Pravda was even more emphatic when he stated that some of the agreements that were signed at the Summit were of paramount importance. He continued, "above all, the document entitled, The Basic Principles of Relations Between the Union of Soviet Socialist Republics and the United States of America deserves special attention. This is the first document between the USSR and USA to give international legal form to relations between the two sides on the basis of the principle of peaceful coexistence." Pravda, 15 June 1972, p. 3 in Current Digest of the Soviet Press, Vol. 24, no. 24 (12 July 1972), p. 28.

77. Garthoff points out that Kissinger did not see it this way at all: "Kissinger's personal evaluation, described by a close associate in an interview, was that the Basic Principles were "frosting on the cake" of detente, accepted simply because of the strong Soviet interest and because they seemed "harmless enough." p. 292.

78. Ferraris, Luigi, Report on a Negotiation: Helsinki-Geneva-Helsinki, 1972-1975 (Geneva: Sijthoff & Noordhoff International Publishers BV, 1979), pp. 20-1.

79. Nixon, p. 876. Kissinger states: "An attempt to transform the Soviet system...was certain to be fiercely resisted by the Soviet Politburo. What are Bolsheviks if not experts in the seizure and holding of power? It would make an across the board confrontation inevitable as the Carter Administration was later to find out. And if America then proved unready or unwilling to stay the course, we stood to lose in two ways: in the further deterioration of human rights in the USSR and in the weakening of the credibility of our foreign policy." Kissinger, Years of Upheaval, p. 989.

80. Cohen, Roberta, "Human Rights Decision-Making in the Executive Branch: Some Proposals for a Coordinated Strategy" in Kommers, Donald P. and Loescher, Gilbert D., Human Rights and American Foreign Policy (Notre Dame: University of Notre Dame Press, 1979), pp. 216-46. Also, Maresca, John J., To Helsinki: The Conference on Security and Cooperation in Europe, 1973-1975 (Durham: Duke University Press, 1985), pp. 11-12 and Reisman, M., The Nation, Vol. 224, no. 18 (1977), p. 555. Mower, Glenn A., Jr., The United States, The United Nations and Human Rights: The Eleanor Roosevelt and Jimmy Carter Eras (London: Greenwood Press, 1979), p. 171.

81. Reisman, p. 555.

82. Edmonds, Robin, Soviet Foreign Policy: The Brezhnev Years (Oxford: Oxford University Press, 1983), p. 107.

83. Garthoff, pp. 248-61.

84. Kissinger, White House Years, p. 1117.

85. Ibid, p. 1163.

86. Even though the CSCE was never mentioned in these exchanges, a description of the general events can be found in: Kissinger, White House Years, pp. 1225-28 and Nixon, pp. 613-14 and Hersh, Seymour, Kissinger: The Price of Power (New York: Summit Books, 1983), pp. 489-528.

87. This was revealed most clearly during the third summit (held in the Soviet Union in June 1974). See Nixon, pp. 1023-39.

88. Ibid, pp. 544-46.

89. Ibid, p. 545.
90. Kissinger, Years of Upheaval, pp. 294-5, 1173-74.
91. Arbatov, Georgi, The War of Ideas in Contemporary International Relations: The Imperialist Doctrine, Methods and Organization of Foreign Political Propaganda (Moscow: Progress Publishers, 1973), pp. 151, 223, 237.
92. For the Soviet assault on the inaccuracy of the atlas see, Izvestiia, 8 August 1972, p. 3 in Current Digest of the Soviet Press. Vol. 24, no. 32 (6 September 1972), pp. 1-4.
93. "Evrope--bezopasnost'," Mirovaia ekonomika i mezhdunarodnye otnosheniia, No. 8 (September 1973), pp. 3-13.
94. Former French President Charles de Gaulle made the following perceptive observation to Nixon in February 1969 in which he predicted this development: "They [the Soviet leaders] are thinking in terms of a possible clash with China, and they know they can't fight the West at the same time. Thus I believe that they may end up opting for a policy of rapprochement with the West." De Gaulle went on to say that these sentiments would be strengthened further by the traditional Russian fear of Germany. Nixon, p. 373.
95. Maresca, p. 10.
96. Kissinger, White House Years, p. 948.
97. Supra, note 95.
98. Kissinger, White House Years, p. 1273.
99. Ibid, p. 413.
100. Viktorov, V. "Na putiakh k razoruzheniiu," Mirovaia ekonomika i mezhdunarodnye otnosheniia, No. 8 (September 1972), pp. 3-10.
101. Ponomarev, G., "Novyi etap bor'by za evropeiskoe soveshchanie," Mirovaia ekonomika i mezhdunarodnye otnosheniia, No. 4 (April 1972), pp. 3-14.
102. According to the Roger Harris, who frequently attended White House staff meetings when West Germany was the topic of discussion, "He [Kissinger] hated Ostpolitik and

Willy Brandt from the beginning...Henry thought the Germans were flirting with historical tragedy; that Ostpolitik would be a prelude to internal fascism, a turn to the right, and the emergence of another Weimar Republic." Quoted in Hersh, Seymour M, Kissinger: The Price of Power (New York: Summit Books, 1983), p. 416.

103. "Declaration of the North Atlantic Council," NATO Final Communiqués (Brussels: NATO, 1971), pp. 215-18. Also, Williams, Phil, The Senate and US Troops in Europe (London: MacMillan Press, Ltd., 1985), pp. 169-234. And Kissinger White House Years, p. 534.

104. Kissinger, White House Years, p. 111.

105. Ibid, p. 414.

106. Ibid.

107. Ibid, p. 415.

108. Ibid, p. 947.

109. Kostko, Yu., Mirovaia ekonomika i mezhdunarodnye otnosheniia, No. 6 (June 1972), pp. 87-9.

110. Pravda, 13 December 1972, p. 5 in Current Digest of Soviet Press, Vol. 24, no. 50 (10 January 1973), pp. 1-3.

111. Ferraris, p. 66.

112. Matveev, Va., "Kakova pozitsiia USA?" in "Obshcheevropeiskoe soveshchanie--vazhnyi etap stroitel'stva sistemy bezopasnosti v evrope," Mezhdunarodnaia zhizn', Vol. 4 (April 1972), p. 90. Also Ponomarev, p. 12.

113. Maresca, pp. 17-18.

114. Kissinger, Years of Upheaval, p. 146.

115. Ibid, p. 136.

116. Kissinger writes: "What concerned us was a tendency to avoid controversies outside of Europe even when they affected fundamental security interests; a creeping dissociation from Western policies except those for the physical defense of Europe; and a more cautious approach to Soviet challenges that tended to drain the Western response of meaning. On one occasion I said to an associate that I

dreaded the moment when 'no German Chancellor can afford the hostility of the Soviet Union. When that happens it will be a very dangerous situation.'" Ibid, p. 146.

117. Ibid, p. 153.

118. Maresca, p. 10.

119. Barnet, Richard J., The Alliance: America-Europe-Japan, Makers of the Postwar World (New York: Simon and Schuster, 1983), p. 317.

120. Kissinger, Years of Upheaval, pp. 173-4.

CHAPTER 2
THE CONFERENCE ON SECURITY AND COOPERATION IN EUROPE

The Conference on Security and Cooperation in Europe officially commenced in the ornate surroundings of the Finlandia Hall in Helsinki, Finland on 3 July 1973. Most authors begin their analysis of the "Helsinki process" with an examination of the speeches presented by the thirty-five foreign ministers present in Helsinki for this first formal meeting from 3-7 July. In fact, the existing literature on the CSCE unanimously labels the July meetings as "Stage I."

This study of the CSCE, with its special emphasis on the aspects relating to human rights, contends that the Helsinki process was, and still remains, one aspect of an unresolvable debate between the representatives of two diametrically opposed ideological systems. Despite optimism in the West over a so-called new policy of "openness" (glasnost) in the Soviet Union, contradictions remain between the East and West European interpretations of the provisions of human rights in the Helsinki Final Act. These differences are longstanding, since well before the CSCE, and will remain into the foreseeable future. Because of the limitations of space, this chapter merely acknowledges the earlier human rights

debates, which have been conducted frequently in the United Nations, and emphasizes that the humanitarian aspects of the CSCE began long before the generally recognized Stage I. In reality, the CSCE's human rights debate began in the preliminary discussions on the format and content of a future security conference. These talks lasted from 22 November 1972 to 8 June 1973 and are often referred to as the Helsinki Consultations.

Therefore, this chapter differs from the literature on the CSCE in that it divides the Conference into four, rather than three major stages: the unofficial Stage I, that is, the Helsinki Consultations; the official Stage I, the formal opening, in Helsinki from 3-7 July 1973; Stage II in Geneva from 18 September 1973 to 21 July 1975; and Stage III in Helsinki from 30 July to 1 August 1975. A new organizational approach to the CSCE is necessary in order to examine more thoroughly the controversy over human rights.

This approach is intended to expedite analysis of the human rights aspects of the CSCE in three interrelated ways. Firstly, this system allows for the clear delineation of Western positions on human rights very early on in the Helsinki process. Secondly, the four stage organizational structure facilitates the objective of revealing that from the outset of the Helsinki Consultations, the

Soviet delegation was concerned about the growing humanitarian aspects of the Helsinki process. And thirdly, this approach presents the CSCE as a series of conferences which gathered momentum and became much broader than the Soviet and, at least initially, the American leaders had intended.

One of the most overlooked aspects of Western participation in the early stages of the CSCE is that the American delegation was a latecomer in outwardly supporting the humanitarian provisions. American officials were more interested in creating unity among the allies and less outspoken about including humanitarian clauses. Furthermore, domestic discontent in the United States in the wake of the Watergate scandal and the unceremonial withdrawal from Vietnam (which was accentuated by the North Vietnamese violation of the Paris Peace Treaty), spread to the CSCE, which was frequently referred to as an unjustified concession to the Soviet Union. Ultimately, concerns about the ability of President Nixon to articulate and implement a foreign policy that defended American interests, influenced the American delegation in the CSCE to adopt a much firmer stand on the humanitarian provisions. By supporting outwardly these proposed terms for the accord, the administration also appeared to adopt more

moral principles than had been used hitherto in the case of the bombing of Cambodia.

The resolve of the Western delegations to insert humanitarian provisions into the CSCE was a great concern for the Soviet delegation. Soviet negotiators began immediately to incorporate safeguard clauses into the various texts--a tactic that would continue throughout nearly three years of negotiation. A generally accepted assertion that the Soviet delegation was "surprised" by the strong Western emphasis on human rights is therefore contestable.¹ Soviet resistance to such provisions actually began early on in the CSCE because it was clear that West European governments wanted them to be included. One of the goals of this chapter is to reveal more accurately the predictably defensive measures which the Soviet negotiators were ultimately able to incorporate into the Helsinki Final Act.

While the Soviet leaders were not surprised about the emphasis on human rights, they were clearly disenchanted over the widening agenda of the CSCE. In fact, the Soviet negotiators considered the Helsinki Consultations as Stage I, which would be followed by a minimum of further negotiations, and signing of the final document by the heads of state in May 1973. Instead, the Helsinki Final

Act was not signed until 1 August 1975 and had undergone a metamorphosis well beyond Soviet intent.

For all of these reasons, an examination of the CSCE negotiations is central to this study of the Soviet and American conflict over human rights. In order to disclose the asymmetrical and unresolvable interpretations of human rights as presented in the Helsinki Final Act, it is crucial to examine the debate over the provisions during the negotiations themselves. Study of this debate will add credence to the view that accommodation between the superpowers on human rights issues is improbable and a foreign policy centred around the protection of a human rights interpretation poses unavoidable dilemmas.

THE UNOFFICIAL STAGE I: THE HELSINKI CONSULTATIONS

On 5 May 1969, in an aide-memoire issued from Helsinki, the Finnish government emphasized the need to consider convening a thoroughly prepared European security conference. The memorandum, sent to the governments of all the European states, the United States and Canada, expressed the willingness of the government of Finland "to act as the host of the security conference as well as for the preparatory meeting provided that the Governments

concerned consider this as appropriate."² As presented in Chapter 1, the prerequisites for such a conference were not fulfilled until late in 1972 and during diplomatic contacts in October and November of that year, thirty-four nations decided to accept the Finnish invitation and to convene preliminary discussions on 22 November.³

The Helsinki Consultations will be examined here in greater detail than in earlier studies on the CSCE. This is due to the fact that the seven months of negotiations in this early stage firmly laid the foundation for the rest of the Conference. During the unofficial first stage, the Soviet representatives exposed their objectives both in their proposals and in their responses to counter-proposals. These early discussions were about both the content and structure of the subsequent stages of the CSCE. Also, this period witnessed the beginning of differences between Eastern and Western delegations over the role that human rights should play in improving European cooperation and security. And perhaps most significant of all, the Helsinki Consultations played a much more important role in the Helsinki process than has been previously recognized.

Soviet Objectives Confirmed

A fundamental problem in examining the Helsinki Consultations is that the negotiations were held in closed session and very few truly insightful documents from this stage have ever been published. Hence, it is necessary to rely heavily on Luigi Ferraris' Report on a Negotiation (1979) which provides a diplomatic chronicle of these early negotiations, but without documentation. Ferraris' work allows the reader to glean Soviet objectives in the CSCE which can then be confirmed by documentary evidence from the prolonged negotiations in Geneva during Stage II. His study helps to confirm that Soviet objectives remained consistent throughout the CSCE. Analysis of the Soviet press adds credence to Ferraris' comments. Newspaper articles which appeared between 1972 and 1975 were especially relevant for this chapter, as well as a smaller number of articles from Soviet journals such as Kommunist and Mezhdunarodnye otnosheniia. The former journal was consulted because of its significance for Soviet domestic politics while the latter periodical is an important source of writings on international affairs.

From the information available about the Helsinki Consultations, it is possible to discern primarily three Soviet objectives. In order of priority, the Soviet

leadership strived to formulate a general statement of principles to confirm the territorial and ideological status quo in Europe; to achieve a non-discriminatory trade arrangement in the CSCE; and finally, through a much more defensive strategy, to prevent any connection between the CSCE and the Mutual and Balanced Force Reduction Talks (MBFR), or with any of the other arms control forums.

This would establish the political, rather than military nature of the CSCE. The exposure of these objectives was quite predictable given the wealth of pre-CSCE statements, emanating from the Eastern camp, which continually reiterated the necessity of adopting such measures for the benefit of detente. Soviet methods to achieve these objectives, and to block proposals arising from countries outside the communist bloc, unfolded during the Helsinki Consultations and remained consistent throughout the CSCE.

Within weeks of the initiation of the Helsinki Consultations, it became apparent that the head of the Soviet delegation, Ambassador Vladimir Aleksandrovich Zorin, viewed the CSCE as a mechanism to confirm and stabilize the then existing political situation in Europe.⁴ In the debates over the agenda for the CSCE, the Soviet delegation first put forward a proposal limited to three parts: "guarantee of security in Europe; cooperation in all sectors; [and] a special organ to exist for

all matters dealing with security and cooperation."⁵ While this agenda placed political security in the forefront of the debate, a proposal submitted by Belgium and Denmark suggested a broader agenda to include: "political security, commercial economic and technical cooperation; [and] freer human contacts and cultural relations."⁶ Ultimately, the Soviet delegation would not be able to block the creation of an agenda divided into four main sections or "baskets:" provisions to enhance political, and to a lesser extent, military security; cooperation in the economic and technological sphere; cooperation in the humanitarian category; and the creation of some type of follow-up mechanism to monitor compliance with the accord.

As presented in earlier Soviet calls for a European security conference, from the Bucharest Statement (1966) to the Prague Declaration (1972), the first basket of the agenda reflected the primary Soviet objective. In these earlier documents, Soviet spokespersons proposed the creation of a number of principles to guarantee security in Europe. During the Helsinki Consultations, the Soviet delegation employed various tactics in order to satisfy the goal of achieving recognition of the status quo.

The first of these efforts began on 1 March 1973 in the working group created to formulate the principles

governing relations among the participating states. During this early session, Poland, on behalf of the Warsaw Pact, proposed that the principles reaffirm the Charter of the United Nations, and the Declaration of the United Nations on Principles of International Law Concerning Friendly Relations Between States (1970). The Polish proposal also suggested that the principles should reflect the "'appropriate' formulations of the agreements made between states in view of a lessening of international tensions and to ensure security in Europe"--a clear reference to the bilateral treaties which resulted from both the West German Ostpolitik and the French rapprochement with the Soviet leaders.⁷

During this same session of the working group, the delegate from the GDR presented a working document of seven principles for Basket I that was supported by the Soviet delegation. These were: frontier inviolability, territorial integrity, refraining from the use of force, sovereign equality, independence, non-intervention, and the peaceful settlement of disputes.⁸ In an effort to secure these principles, which accentuated the theme of the confirmation of the territorial status quo in Europe, the Warsaw Pact delegations suggested immediate approval of the few principles that were acceptable to most of the

delegations. During the first week of March, one Soviet newspaper reported fallaciously that:

None of the participants in the consultations is now expressing doubt that the first task of the upcoming all-European conference should be to discuss the question of European security and the principles of relations among European states, including certain measures for strengthening stability and trust.⁹

The Soviet delegates argued that, since the participants in the consultations were fully enlightened as to the "true" objectives of the upcoming CSCE, it was necessary to convene the conference "no later than the middle of 1973...."¹⁰ These efforts to rush the negotiations were intended to prevent the inclusion of principles desired by the neutral and Western nations, especially in the case of self-determination, peaceful change and respect for human rights. These principles were inimical to Soviet objectives because, instead of solidifying the political and territorial order in Europe, they represented the West European notion that the structure of Europe was not yet permanent and could not be ossified until well after the CSCE was over. In other words, the European security conference was, to many delegations outside of the Eastern bloc, the beginning of a process to resolve these questions, rather than an end in itself. Because this was to be long-term process, Ferraris noted that:

the majority, and the neutral countries in particular, (and the Maltese delegation with particular clarity and wisdom), hurriedly [sic] pointed out that they had no intention of working against the clock as what mattered was obtaining positive results.¹¹

A primary Soviet concern in the working group on the principles was to head off Western attempts to include, within the inviolability of frontiers principle, a clause about refraining from the threat or use of force. This assault on the "Brezhnev Doctrine" was led by the Italian delegation, which argued that this connection was well established in international law.¹² To complicate matters further for the Soviet negotiators, other Western delegations, and Romania, emphasized the unacceptability of a declaration of principles without clauses guaranteeing the right to peaceful changes of frontiers (interestingly, during Stage II, the Soviet leaders would feel compelled to accept both the concept of peaceful change and some Basket III provisions in order to register the inviolability principles). And after the inclusion of principles prohibiting the threat or use of force and safeguarding the sovereign right to peaceful change, the neutral and West European delegations later argued that there would have to be a clear statement that all the principles were of equal importance.¹³ This would have prevented the East European delegations from arguing that the principles on the inviolability of borders

were predominant. But one must conclude that the Soviet delegation had a clear advantage because they were campaigning for principles which could be implemented immediately, while the West European and neutral delegations articulated clauses that could only be enacted in the future. For example, the principle of territorial integrity could be respected simply by restraint or inaction by the participating nations. They could agree to avoid "aggression" as soon as the document was signed. But the concept of peaceful change could only be realized after persistent action by the relevant governments.

Throughout the Helsinki Consultations, and eventually in the Geneva stage of the CSCE, the Soviet delegation continued to pursue a number of related strategies to confirm the territorial status quo: firstly, by obtaining a very general statement of principles that were already accepted in international documents, but restated to have special regional application for Europe; secondly, by placing the greatest emphasis on the inviolability of frontiers principle as the foundation for building security in Europe; thirdly, by resisting any efforts to introduce fresh principles into Basket I; and finally, by achieving not only early acceptance of the principles, but also by presenting the work on the principles as the most significant aspect of the conference. According to Soviet design, the first section would become

the dominant section of the final document and would eventually be signed by the heads of state of the signatory nations. The Soviet delegation, as well as other Warsaw Pact delegations, put much effort into limiting the agenda to these issues that would do little more than confirm the territorial and ideological status quo.

The second major Soviet objective revealed during the Helsinki Consultations was the achievement of a non-discriminatory trade agreement. On 21 March 1973, the Soviet delegation proposed a European programme of nondiscrimination in trade relations with an explicit most-favoured-nation clause.¹⁴ This, and further statements, reiterated earlier calls for improved economic and technological exchange and, as the conference proceeded, the Soviet delegation began to appeal directly to the member states of the European Economic Community.¹⁵ These early ambitious proposals in the economic sphere also revealed, quite openly, that the Soviet leadership was concerned about the possibility of the EEC becoming a military alliance, or linked with NATO. As the EEC was about to grow from six to nine members, Soviet anxiety over this possibility increased.¹⁶ But if there was to be an increase in trade, the Soviet method was to limit contacts to the institutional level (EEC and CMEA) rather than to allow closer personal exchanges. And in order to facilitate ever closer governmental supervision, Soviet representatives

preferred to negotiate bilateral agreements with each individual country of the EEC.¹⁷ Although the debates in the second basket go well beyond the scope of this study, it should be noted that the Soviet desire to achieve a favourable agreement in this category continued throughout the CSCE. Such measures were intended to give a boost to the sluggish Soviet economy.

A third Soviet concern in the Helsinki Consultations was largely defensive--to prevent the neutral and nonaligned nations from interjecting military and arms control issues into the CSCE. While the immediate Soviet concern was to prevent linkage between the CSCE and MBFR, other attempts to expand the CSCE agenda into the military and arms control spheres were also resisted. The initial attempt to establish these connections occurred early on in the Helsinki Consultations in a proposal by Sweden. The Swedish attempt to link the CSCE and MBFR was rejected not only by the Soviet Union, but also by France, Italy and the United States, in other words, by both NATO and the WTO.¹⁸ But a much more complicated debate was initiated over what would become the confidence-building measures (CBMs) of the CSCE. These fell into three major categories: prior notification of major military maneuvers (i.e. war games); notification before major military movements (i.e. reorganization); and exchange of military observers. During Stage II, the neutral and

nonaligned nations would stand firm on CBMs, in part because of the rare chance of influencing the defense policies of the military blocs of Eastern and Western Europe.

During the Helsinki Consultations, the Soviet delegation confirmed its objectives as indicated in earlier Soviet calls for a European security conference. In these preparatory discussions, it became clear that the Soviet leaders would attempt to gain acceptance of a general statement of principles, with emphasis on the concept of the inviolability of frontiers, in order to confirm the territorial status quo. Also, faced with a troubled Ninth Five Year Plan (1971-75), favourable economic and technological exchange clauses were desirable, although not imperative.¹⁹ Finally, as will be revealed with more clarity in the following section, the Soviet leaders would resist any expansion of the agenda into other areas, including the military sector.

The Role of Human Rights in the Helsinki Consultations

During the Helsinki Consultations, it became apparent that the delegations from Eastern Europe would resist any efforts to expand the CSCE agenda to include issues involving the political, social and in some cases, even the cultural rights of citizens in the participating nations. Earlier Soviet negotiating behavior had built a foundation for these

attitudes. But American indifference to the humanitarian aspects of the CSCE was unexpected by West Europeans and it was left to the smaller NATO member nations, and to the neutral and non-aligned countries, to defend the inclusion of these principles in the CSCE.

As stated in Chapter I, the American negotiating position did not result from a lack of concern over human rights issues as much as from a calculated strategy to play a behind-the-scene supporting role for the United States' allies in the CSCE. The objective was to let the West European governments take the lead in the Conference. This was, in part, a matter of necessity due to ongoing difficulties in the trans-Atlantic relationship. Many European governments had outwardly resisted Kissinger's inquiries into American sponsorship of the Year of Europe initiative. Furthermore, Kissinger and Nixon viewed the CSCE as a Soviet-sponsored project which did not deserve the publicity that a firm and public American position would elicit.

Therefore, the human rights debate in the early months of 1973 was carried out between the representatives of the East and West European governments. This early disagreement over the role of issues of human rights in the Helsinki process revealed two broad approaches that the Soviet delegation would use in order to prevent the CSCE from becoming a forum for a debate over human rights. Soviet

delegates argued that questions of human rights were not admissible in the CSCE format. Also, recognizing that the support for such provisions was too strong to counter entirely, Soviet delegates attempted to incorporate within the humanitarian provisions general safety clauses that could be used to limit the responsibility of the participating states in this sphere. While these tactics will be mentioned here as part of the Helsinki Consultations, a much more thorough debate over these issues took place during Stage II in Geneva, which will be discussed later.

Soviet attempts to illustrate that human rights issues were not applicable to the CSCE really began in the early debates over the content of the agenda. Thus, differences over human rights began even before unanimous agreement that there would be three sections to the negotiated document. As illustrated above, the Soviet proposal for the agenda of the first basket of the document did not include a human rights principle.²⁰ Soviet spokespersons also resisted the creation of a third basket which would deal, in more specific terms, with an expansion of contacts and a freer flow of information between individuals in the participating states.

The initial Soviet reasoning behind the inadmissibility of human rights provisions, at least as presented formally, involved the assertion that human rights are not a legitimate subject of discussion between governments.²¹ In official

Soviet eyes, the rights of citizens are defined and protected by their respective governments, which makes the issue a purely internal matter. Hence, the CSCE, as a negotiation among states, should include only those issues in state-to-state, or external relations. Soviet commentators claimed that reactionary circles in the United States intended to ensure the free movement of people and ideas across the ideological border simply to restore the old bourgeois order.²² In an attempt to show some flexibility, Brezhnev stated that humanitarian cooperation was possible as long as there was respect for:

the sovereignty, laws and customs of each country and serves the mutual spiritual enrichment of the peoples, the growth of confidence among them and the affirmation of the ideas of peace and good-neighbourliness.²³

He continued:

We are for the expansion of tourist exchanges. We are for broad contacts between the public of various countries, for meetings between young people and representatives of related occupations, for trips by citizens on a collective or individual basis. In short, there are considerable possibilities, provided that the countries involved act in a spirit of mutual respect and non-interference in one another's affairs....²⁴

The "considerable possibilities" that Brezhnev mentioned would be assessed and coordinated by the Soviet authorities, thus giving the government and Party the ability to curtail such exchanges. In another so-called concession, Soviet

representatives to the Helsinki Consultations did state that these issues could be mentioned in bilateral negotiations during and after the CSCE.

In contrast, Western delegates underlined the central role of the human rights issue in the security-building process. For example, the Italian delegation "emphasized the main relevance of the individual even in the relations between the States...."²⁵ During the heated discussions of the first week of February 1973, the ambassador from the Netherlands noted the difference in approach to human rights by the East and West. While the Eastern nations put the state at the centre of the relationship between individuals of different nations, the Western democracies viewed state intervention as too restrictive and an impediment to building upon detente further.²⁶ In the words of a Swiss delegate, "to create good feeling between each other, we must first understand each other."²⁷ To this delegate, personal contacts and exchange of information between individuals outside of governmental restrictions, was a prerequisite for improving the political climate in Europe. This view conflicted with the Soviet notion that expansion in this area could occur only after an amelioration in the political climate in Europe. The resolution of these problems was in the Soviet view, the responsibility of the various states. Once the representatives of the nations participating in the

CSCE recognized the realities of post-World War II Europe, as the Soviet side saw these actualities, then the Soviet authorities could distribute the benefits of detente in Europe to individual citizens. Similarly, an increase in tension in Europe could therefore cause the Soviet leaders to restrict personal contacts and exchanges of information between individuals. In other words, the state was to oversee all contacts between individuals in Eastern and Western Europe. Because of these divergent positions between East and West, the problem that the CSCE did not resolve was that of the status of the individual in inter-state relations.

Recognizing the broad Western support for humanitarian principles in the CSCE, the Soviet delegation initiated efforts to include measures in the Helsinki Recommendations (or the "Blue Book" as it was often called due to its light blue cover) that would safeguard the right of the state to intervene to restrict individual rights. On 7 February, Polish ambassador Willmann stated that:

all activity in the field of information of cultures and contacts between people must respect the principles of the sovereignty of States, of noninterference in internal affairs, and the respect for the laws and customs [and the] responsibility of States [in defining the] general trends of activities.²⁸

Since Basket III was emerging as a hotbed of human rights provisions, the delegations from Eastern Europe strove to

formulate a preamble to that section which applied restrictive state rights to the provisions.

Soviet attempts to formulate a restrictive preamble were especially evident on 2 May, when the Soviet delegation called for acceptance of the principles of non-interference, respect for rights inherent in sovereignty, and respect for internal legislation.²⁹ Since the main objective of the Soviet leaders was merely to confirm the status quo through Basket I principles, a re-statement of these principles in the Basket III preamble was intended to neutralize the humanitarian provisions there. On 7 May, the Bulgarian delegations resisted inclusion of all the principles from Basket I into the preamble, because this would have incorporated the principles concerning respect for human rights and self-determination into Basket III.³⁰

On 4 April, Soviet ambassador Zorin argued that human contacts are a part of cultural cooperation. Since the Soviet argument was that cultural cooperation necessitates organization from state bodies, the Soviet leaders would again have a safety clause providing justification for the restrictive practices of the state.³¹ And as stated by Polish ambassador Willmann in reference to the dissemination of information, these activities would be curtailed if they did not conform with the aims of detente as defined by the Polish government.³²

As will be seen in the following section, the final version of Basket III in the Helsinki Recommendations was watered down from what the Western delegations considered ideal. The basic differences over the role of human rights in the CSCE remained, and the exploratory debates of these preparatory discussions indicated that much hard negotiation would have to take place in Geneva in order to reach a compromise.

Most significant of all, a brief examination of the negotiation leading up to the Helsinki Recommendations shows that, as early as November 1972, the Soviet delegation was very concerned about the expansion of the agenda for the CSCE to include issues of human rights. Many of the controversial aspects of this matter had been mentioned, if not more thoroughly discussed, during this unofficial first stage. The Soviet delegation had revealed portions of its strategy to downplay the humanitarian provisions. These revelations about the Helsinki Consultations provide a clearer understanding of the evolution of human rights within the Helsinki Final Act than has been offered in the literature to date. The Soviet delegation could not have been surprised about the great interest in human rights during Stage II. Rather, the Soviet representatives were already on the defensive on this matter and were determined to endure the controversy over the

humanitarian aspects in order to achieve confirmation of the territorial status quo.

The Final Recommendations of the Helsinki Consultations

Two major features of the Final Recommendations will be mentioned here: procedural rules of special importance for the negotiations; and provisions within the Recommendations that dealt with the humanitarian aspects of the conference. The text of the Final Recommendations set the stage for the next two years of negotiation and was a remarkable achievement in its own right. Nevertheless, the nations of Eastern and Western Europe had created a very general set of guidelines that would necessitate much negotiation over specifics.³³

Procedural Rules in the Final Recommendations

The Final Recommendations outlined a number of organizational and procedural matters. Firstly, negotiations would take place according to an agenda divided into four major sections: Basket I, Questions Relating to Security in Europe; Basket II, Cooperation in the Fields of Economics, of Science and Technology and of the Environment; Basket III, Cooperation in Humanitarian and Other Fields; and Follow-up(s) to the Conference. This more thoroughly prepared

agenda was a success for the West European delegations from limiting the CSCE to a short, general statement formulated and approved in only a few weeks of negotiation.

Secondly, the CSCE was formally divided into three future stages (paragraphs 6-12 of the Final Recommendations). Stage I would take place in Helsinki and would consist of a meeting of foreign ministers representing the participating states, who would "adopt the rules of procedure, the agenda and the instructions of the working bodies of the Conference, together with the other arrangements relating to the conduct of the Conference" (paragraph 7 of the Final Recommendations). The foreign ministers would present speeches outlining each government's official view of the most significant issues of the Conference. But the bulk of the negotiation would occur during Stage II when committees and subcommittees within each basket would formulate the various provisions based upon proposals from the delegations.³⁴ The representatives at Stage III would ratify the document and present speeches on its significance. The Soviet leaders were insistent that representation at this stage occur at the highest level, which would enhance the political significance of the document.³⁵ However, the Final Recommendations left this issue unresolved until more was known about the progress of the negotiations. As would be revealed later, the three-Stage procedure was of special benefit to the Western

delegations for it allowed them to introduce more proposals, based on their view of how to improve detente, as opposed to East European proposals which were bland and merely confirmed the existing political and geographical divisions in Europe. According to Ferraris, the three-stage procedure made the CSCE "condemned to succeed" as each stage was dependent on success in the stage which preceded it.³⁶ During the Helsinki Consultations, the Soviet and East European delegations were anxious to move on to Stage I and were forced to accept a broader agenda so that the CSCE could officially begin. As will be seen later in this chapter, a similar situation resulted during Stage II when the Soviet negotiators wanted to move on to the ceremonial signing at the end of Stage III.

The three-stage procedure was beneficial for yet another reason. Since the negotiations were an outgrowth of detente and possibly a blueprint for future East-West rapprochement, each delegation must have been sensitive to the danger of being viewed as an impediment to the development of a new era of relations in Europe. If a nation was singled out for infelicitously delaying the conference over a peripheral or marginally tangential issue, as was Malta in Stage II, that nation would incur the wrath of delegations from both Eastern and Western Europe. The unavoidable consequence of this fear was an even greater desire by each nation to solidify its

position in an alliance of negotiators. This would prevent a single nation from being blamed for delays in the Conference because a larger alliance of representatives would be responsible for a proposal or objection. Therefore, while it may have appeared that the CSCE would be saddled with thirty-five nations representing a plethora of desires, in actuality, objectives were tempered by concessions within alliances and the desire to proceed to the next stage of negotiation.

Yet another procedural rule was, in fact, intended to prevent the debilitating effects of bloc negotiations. The Final Recommendations expressly stated that "the Conference shall take place outside military alliances" (paragraph 65). In reality, the participants in the Conference gravitated toward their traditional allies, making this more a statement of intent than an inflexible rule. Since the political, economic and military alliances operated in the CSCE (especially NATO, the WTO and the EEC), proposals were often presented by one nation on behalf of an alliance. Early on, Soviet commentators complained about noncompliance with paragraph 65, referring specifically to the members of the Common Market.³⁷ But this criticism was potentially counter-productive because, without the unofficial functioning of alliances, the CSCE would have lasted much longer than two years. While the Soviet leaders may have wanted to disrupt

the military and economic organizations that were allegedly hostile to the Soviet Union, they also wanted to finish the European security conference as soon as possible and to confirm the political organization of Eastern Europe. Since the blocs did function during the CSCE, Soviet-approved proposals were frequently submitted by East Germany, Poland and Bulgaria, especially in the case of Basket III issues.³⁸

Nevertheless, even the smallest of the delegations could still block progress in the negotiations because the procedural rule of vote by consensus was outlined in the "Blue Book" (paragraph 69 of the Final Recommendations). This gave each delegation a veto over decisions taken in the Conference. Yet the threat of using the veto would always wield more influence than ultimately refusing consensus over any matter, since a desperate veto would signal a serious breakdown in negotiations. Any lengthy delay in Stage II would, of course, prevent the initiation of Stage III. In any case, in reference to issues in Basket III, differences usually occurred between the Eastern and Western nations which meant that, at times, even a simple majority was impossible. But combined with the rule of consensus voting, the idea that the Conference should have taken place outside of military alliances allowed the neutral and non-aligned nations to play a much more influential role than would otherwise have been possible. During Stage II, the smaller

neutral nations would seize upon Basket III issues as their area of special interest, thereby constituting a negotiating "alliance."

Finally, the Final recommendations (paragraph 70-96) outlined the procedures of a rotating chairmanship of committees and subcommittees; establishment of an Executive Secretary from the host country; collection and distribution of proposals; the closed or private nature of the negotiations during the second stage; and the distribution of expenses for the Conference. Once again, these procedural rules accentuated a more thoroughly prepared agenda with a more influential role for the smaller nations of Europe. This meant that the CSCE would consider more issues than those revealed in the Soviet proposal of 22 January 1973. A greater amount of negotiation would be necessary, thus prolonging the Conference well beyond the stated deadline desired by the Soviet leadership.³⁹ Since it was apparent that the smaller nations in Europe could, according to the Final Recommendations, negotiate on equal strength with the superpowers, any Soviet chances of merely confirming spheres of influence in Europe were crippled, if not decimated. In fact, Soviet commentators felt compelled to issue a statement on the importance of the small and medium sized states in Europe. This declaration emphasized that the Soviet Union did not desire the CSCE simply to secure its hegemony in

Eastern Europe.⁴⁰ As will be discussed later in this chapter, the smaller neutral and West European nations countered by arguing that, if this were true, then the Soviet Union should have been willing to accept the possibility of peaceful changes and broader contacts between people in Europe. These were developments which the Soviet delegation had resisted unsuccessfully.

The Humanitarian Provisions in the Final Recommendations

The human rights issue was incorporated into the Final Recommendations through a principle in Basket I within the section entitled, "Questions Relating to Security in Europe," in which the participating states reaffirmed the primary significance of "respect for human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief" (paragraph 19). The Final Recommendations also confirmed that an entire basket would deal specifically with "Cooperation in Humanitarian and Other Fields" (paragraphs 42-52). The fact that these provisions were included in the Final Recommendations assured that the human rights issue would play a major role in further negotiations on the formulation of the Final Act.

The "respect for human rights" principle, or "Principle Seven" as it became known, was lodged within the most

important section of the Final Recommendations for the Soviet leaders. Therefore, at this point in the negotiations, the significance of this particular human rights principle lay in its location rather than in its content. During the Helsinki Consultations, many West European delegations had insisted on a statement to the effect that all of the principles were of equal value. These delegations had succeeded in defending the proposition that, in any attempt to enhance stability in Europe, the rights of the individual, however they were defined, must be considered and such issues could be raised during negotiations between the representatives of states. Even though Soviet negotiators would later use tactics to circumvent this reality, the inclusion of this principle was a significant achievement in the face of resistance from the East European delegations. Moreover, the principle was a prominent feature of Basket I because, like the rest of the principles, respect for human rights was to be carried out "in conformity with the purposes and principles of the United Nations," reminding the participants of their already existing obligations in this area.

By contrast, all of the Basket III agenda contained humanitarian provisions. While the Final Recommendations were very vague regarding this category--the debates over human rights would continue in Stage II--an ambitious attempt was made by numerous Western delegations to cement the role

of human rights in the overall Helsinki process.⁴¹ Paragraph 42 states:

With the aim of contributing to the strengthening of peace and understanding among the peoples of the participating states and to the spiritual enrichment of the human personality, without distinction as to race, sex, language, or religion and irrespective of their political, economic and social systems, the Committee, assisted by the appropriate Sub-Committees, shall be charged with examining all possibilities of cooperation conducive to creating better conditions for increased cultural and educational exchanges, for broader dissemination of information, for contacts between people, and for the solution of humanitarian problems. In this connection, it shall not only draw upon existing forms of cooperation, but shall also work out new ways and means appropriate to these aims.

This is a paragraph laced with phrases desirable to many Western delegations and largely concessionary from the Soviet standpoint. The Western preferences included: recognition that expansion in this category would strengthen peace, that is, security; acknowledgment that broader dissemination of information generally, and contacts between people specifically, should be an essential part of this process; and finally, paragraph 42 went well beyond a stagnant reiteration of existing documents on this subject and called for the formulation of "new ways and means" to achieve humanitarian cooperation. Despite the important location of Principle Seven, this was the genesis of the debate over human rights in the CSCE. Because the unanimous agreement to consider new

methods to solve humanitarian problems implied that the delegations could be imaginative beyond the parameters of precedent, it appeared that virtually any proposal would receive at least a modicum of attention (as was the case, for example, with the British proposal for a New International Magazine with European-wide circulation).⁴² These manifest possibilities reflected Western perspectives and would later cause problems for the East European delegations as they would attempt to block any human rights proposals tailored by the delegates of the West European or neutral nations. Obviously, the Conference was going to be of longer duration, with a broader agenda in Basket III than the Soviet representatives had desired.

While paragraph 42 reflected Western aims, paragraph 43 most accurately represented the objectives of the Warsaw Pact nations. It stated:

The Committee in its final document will formulate relevant proposals, based on full respect for the principles guiding relations among the participating States enumerated in the terms of reference for the Committee on item I of the agenda.

To the Soviet delegation, this paragraph meant that the principle of non-interference in internal affairs applied to Basket III in its entirety. The wording of the paragraph, however, was not nearly as restrictive as originally desired. The Soviet delegation had campaigned for a paragraph that

merely restated the principles of sovereignty, non-interference and the observance of the laws and customs of other nations without citing any of the other Basket I principles.⁴³ In this regard, the West European delegations were successful in attaining a reference to all of the principles, which then made the respect for human rights principle equally relevant. This added even more significance to this third section because Principle Seven was one of the ten general guidelines for improving detente, but it was punctuated in Basket III. The principles that the Soviet and East European delegations desired the most in Basket I, did not receive this much attention in other sections of the evolving Final Act.

Paragraphs 42-44 made up the skeleton of the future preamble to Basket III. The subsequent provisions in the basket all became subordinate to the directives of the preamble, so the debates over how to refer to the Basket I principles were crucial.

The actual humanitarian provisions in Basket III were divided into four categories: Human Contacts (45-46); Information (47); Cooperation and Exchanges in the Field of Culture (48-50); and Cooperation and Exchanges in the Field of Education (51-52). Consisting of well over 700 words, the four subsections of Basket III were, at least in appearance, a victory for the persistent Western delegations. But the

provisions in the Final Recommendations were too general for early optimism and much of the most difficult negotiation in the Conference would take place over these subsections.

Human Contacts

The first subsection, Human Contacts, was a concession from Soviet Ambassador Zorin, who had argued that this issue did not warrant individual consideration by a subcommittee. According to Soviet reasoning, human contacts fell into the category of cultural cooperation and should have received consideration in that particular subcommittee.⁴⁴ Ferraris summarizes the counter-argument presented by the Italian delegation as follows:

It would not, in fact, be logical to consider measures to improve the circulation of books and newspapers or to increase the knowledge of works of art and cultural achievements of other countries, if people were not able to meet more often and more freely...[for] free discussion and therefore dialogue, debates and criticism....⁴⁵

In other words, human contacts were not subordinate to cultural exchanges. Rather, they facilitated cooperation in this area and were valuable in their own right. By attaining a separate formulation of the concept of human contacts, the Western delegations assured that they would be discussed in greater detail during the CSCE.

Nevertheless, the ambiguous formulation of the human contacts subsection left the Soviet delegation in a strong negotiating position in the Conference. State control over any future increase in this category was possible due to the weak wording of the two paragraphs. Since the subcommittee was ordered to prepare proposals "to facilitate freer movement and contacts, individually or collectively, privately or officially, among persons, institutions and organizations....," (emphasis added), the issue remained unclear as to whether or not this meant that individual contacts would receive as much attention as collective or institutional contacts. Soviet spokespersons had always favoured limiting contacts to the institutional level.

In addition, paragraph 46 calls for "favorable examination...by the States concerned under mutually acceptable conditions" to facilitate:

- (a) contacts and regular meetings on a basis of family ties; reunification of families; marriage between nationals of different States;
- (b) travel for personal or professional reasons; improvement of conditions for tourism, on an individual or collective basis;
- (c) meetings among young people; expansion of contacts and competitions, particularly in the field of sport.

Improvements in this category would necessitate organization by the various governments. The phrasing at the beginning of paragraph 46 illustrated that increases in travel and contacts would have to be examined in bilateral talks

following the Conference because the multilateral CSCE was simply too broad in membership and agenda to result in specific agreements. Soviet representatives made their view on this issue quite obvious when they later stated that, "we are not opposed to the expansion of these exchanges, but we feel that in each case the problems should be resolved on a bilateral basis depending on interest and possibilities."⁴⁶ While some Western delegates were concerned that this extensive governmental involvement would allow the Soviet leadership to restrict human contacts, the chances of reaching "mutually acceptable conditions" were far greater in bilateral, rather than multilateral talks.⁴⁷ If a government was later unhappy about the Soviet position in a bilateral negotiation, it would have a much more adequate forum in which to complain or to explain the way in which a Soviet action could influence other aspects of their relations.

Information

In wording similar to that for human contacts, the subcommittee on information was to formulate proposals "to facilitate" the freer and wider dissemination of all types of information. Areas of special concern included:

- (a) improving the circulation of, and access to, oral, printed, filmed and broadcast information and extending the exchange of information;

- (b) encouraging cooperation in these fields of information on a basis of short or long term agreements;
- (c) improving conditions under which journalists from one participating State exercise their profession in another participating State
(paragraph 47)

While these provisions go much further in pledging a freer flow of all types of information than the other three subsections of Basket III, an important distinction of special benefit to the Soviet delegation remained: ultimately, implementation of these provisions would be left to the individual government. If interpreted in the broadest sense, paragraph 47 committed the participating states to modify their internal practices to allow for a wider distribution of information. But, as stated by Polish Ambassador Willmann, the East European governments would resist any attempts to modify the internal laws or customs of their political systems. Also, interstate, as opposed to intrastate expansion in the category of information, was pledged in a much weaker fashion by use of the term "encouragement."⁴⁸

Similarly, Ferraris' earlier sentiment that the information subsection was "the richest in innovative terminology," gave way to a more sombre assessment in which he stated that the subsection:

might seem to offer the best of conditions for the sparking off of a wider circulation of news between the countries of Eastern and

Western Europe [but] the stubborn fashion in which the Eastern European delegations had outlawed an Italian amendment on the introduction of the spreading of ideas to be placed near that of information, invites the belief that the East intended administering the task of facilitating a freer and wider diffusion of every kind of information with a cautious and restrictive spirit.⁴⁹

As has already been discussed in this chapter, the Soviet leaders were very insistent that certain kinds of information would be restricted (i.e. propaganda, slander). While Ferraris states the obvious, that the Soviet and East European delegations would not allow a freer distribution of every kind of information, he does not confront the central question of whether or not this authority was well within the providence of the sovereign governments. The Helsinki Recommendations did encourage a broader dissemination of information, but implementation was left to the participating nations who could, quite legally, restrict the flow of information considered harmful, regardless of the reason. This legal right to restrict information remained in the Final Act, which left only the possibility of political and economic measures for "punishment" which will be discussed in Chapter Five.

Cooperation and Exchanges in the Field of Culture

The subsection on culture, as well as that on education, is much longer than those concerning human contacts and information, and would remain equally disproportionate in the Final Act. Of the issues in Basket III, cultural exchanges was one of the least controversial, at least in that it involved far fewer issues of ideological principle than the delegations from Eastern Europe would have regarded as offensive. This was a subject that the Soviet leaders had considered appropriate for the CSCE. After all, the Soviet Union and United States had been adhering to an agreement on cultural exchange since 1958. This agreement was renewed and expanded in April 1972 and promoted exchanges of university lecturers, performing artists, and cultural exhibitions. It also pledged to encourage the study of foreign languages.⁵⁰ While the Helsinki Consultations were in progress, Romania signed a new cultural exchange agreement with the United States.⁵¹ These precedents indicated that the Soviet delegation would not resist a subsection on cultural matters in the Helsinki Final Act.

As stated in the Final Recommendations, the Subcommittee on Cultural Exchanges was "to consider" proposals to extend and improve cooperation. This extremely weak commitment, as opposed to such terminology as to "facil-

itate," "formulate," or "prepare," was followed by a list of objectives:

- (a) Extension of relations among competent government agencies and non-governmental bodies dealing with matters of culture;
- (b) Promotion of fuller mutual knowledge of and access to achievements in literature, art and other fields of cultural activity;
- (c) Improvement of facilities for contacts and exchanges in the above-mentioned spheres;
- (d) Extension of contacts and cooperation among creative artists and people engaged in cultural activities...cooperation and exchange of films and of radio and television programmes.

(paragraph 49)

Reiteration of the important role of the individual in this sphere was relegated to point (d), following the assertion of the role of governmental and non-governmental organizations in promoting cultural exchange. If one adopts the position that the location of certain provisions within the Final Recommendations was significant, then the reiteration of more control by the government before the assertion of the role of the individual favoured the Soviet position. The order in which points were made indicated priorities even though this was not intended by most delegations. It was apparent during the Consultations that the Soviet delegation was very cognizant of the interrelationship among the provisions and their specific location within the text.⁵² Even though the Soviet leaders were more forthcoming on cultural exchanges, they did not want broader contacts outside of state organization because they believed that the Western nations would use

these opportunities to spread ethnocentrism, anti-communist sentiment and that they would attempt ideological subversion against the Soviet Union.⁵³

The entire realm of cultural exchange was patterned on the results of the Intergovernmental Conference on Cultural Policies in Europe, organized through UNESCO and held in Helsinki in June 1972. One of the most striking characteristics of the document from this earlier conference is that it explicitly ties cultural cooperation to the independence and sovereignty of States and does not sanction any exchanges that could ultimately interfere in the internal affairs of the signatory nations.⁵⁴ Furthermore, it stated that only the expansion of "authentic" cultural values should be contemplated, but "authentic" was never defined formally. These were precisely the principles that the Soviet delegation wanted in the Basket III preamble, but the West European delegations had blocked this effort. Instead, these same principles were incorporated into the work of the Third Committee through the discussions and drafts in the subcommittees. The final formulation of the subsection on cultural exchange in the Final Act would still retain a reference to the Intergovernmental Conference on Cultural Policies in Europe.

Cooperation and Exchanges in the Field of Education

The subsection on education was less controversial than the other aspects of Basket III as it reflected a gradual convergence of views between East and West in earlier multilateral and bilateral agreements on this issue. Nonetheless, the phraseology and order of the provisions, which resembled those of the cultural exchange subsection, favoured the East European interpretation. The main points were as follows:

- (a) Expansion of links between State institutions and non-governmental bodies whose activities are concerned with questions of education and science.
- (b) Improved access, under mutually acceptable conditions, for students, teachers, and scholars from the participating States to each other's educational, cultural and scientific institutions, and a more exact assessment of the problems of comparison and equivalence between academic degrees and diplomas.
- (c) Encouragement of the study of the languages and civilizations of other peoples for the purpose of promoting wider acquaintance with the culture of each country.
- (d) Exchange of experience in teaching methods in various fields including those used in adult educations and exchanges in the field of teaching materials.

(paragraph 51)

Here it should be noted that institutional exchange received priority in listing over individual exchange and that expansion of educational exchanges as in all of the subjects dealt with in Basket III, would necessitate much state intervention for organizational reasons. Moreover, imple-

mentation of the provisions, such as encouraging the study of languages and civilizations would require implementation by the governments concerned.

The ambiguous terminology represented in the phrase "improved access, under mutually acceptable conditions," most favoured the Warsaw Pact nations which, it appeared from negotiating positions, considered unrestrained educational exchange as a prelude to ideological subversion or "psycho-logical warfare" as Soviet spokespersons would call it following the CSCE.⁵⁵ West European delegations did not register similar complaints and had little use for the phrase "mutually acceptable conditions," at least in order to restrict this activity. Given the role played by Marxist-Leninist ideology in the Soviet Union, the mutually acceptable conditions of educational exchange were liable to be very limited indeed.

In conclusion, the humanitarian provisions of the Final Recommendations were a success for the West in that the Warsaw Pact delegations were forced to accept a much broader agenda than originally envisioned. But the overwhelming weakness of these provisions, which was advantageous to the East European delegations, was the preponderance of governmental involvement in this category, combined with provisions that were so ambiguous in their terminology as to allow the

Soviet leaders, in particular, to maintain their own state-centred interpretations in Geneva during Stage II.

THE OFFICIAL STAGE I IN HELSINKI

The first formal stage of the Helsinki process from 3-7 July 1973, served two purposes. Firstly, the foreign ministers of the 35 nations represented met to approve the rules of procedure set out in the Final Recommendations. Secondly, Stage I offered an early opportunity for each foreign minister to present the views of his government on the proper course of the negotiations.

Analysis of the speeches presented by the foreign ministers in the open and very publicized meetings in Helsinki contributes to our understanding of the transition to the difficult negotiations in Stage II in Geneva. The objective here is to discuss the relevant speeches and proposals issued by the respective foreign ministers of East and West European delegations. A brief examination of the documents from this stage illustrates that the Final Recommendations did not bridge the differences between East and West on the purposes of the Conference. This was especially true in the case of human rights, as it was made increasingly clear that confirmation of the territorial status quo also solidified the ideological status quo to the

Soviet leadership. The Helsinki Consultations had alerted the East European representatives to the interest of their West European counterparts in expanding the agenda on humanitarian issues. The speeches from the East European foreign ministers reflected this concern.

The East European Delegations

The speeches presented by the Warsaw Pact delegations in Helsinki during the first week of July, illustrated a clear division between Eastern and Western Europe on the purpose of the CSCE. Under different circumstances, Stage I would have been entirely ceremonial, but because of the secrecy surrounding the preparatory discussions, the speeches provided the first documented example of how the Warsaw Pact delegations were negotiating in the CSCE. The differences in the speeches between the East and the West resulted, for the most part, from antithetical perceptions of detente. The CSCE was an outgrowth of the improving relations in Europe and, as was realized early on, the multilateral Helsinki process offered a unique opportunity to define the future course of detente in Europe.

Due to an unusual series of events, Soviet Foreign Minister Andrei Gromyko spoke first at the open session on July 2.⁵⁶ In a speech of over one hour in length, he stated:

As no one else, Europeans learned from bitter experience that wars started when one State raised territorial claims against another. That should be ruled out for the future. There should be no ambiguity left in this matter. Territorial integrity is naturally considered by each State as its primary prerogative. In order to learn to live permanently in peace with each other, it is necessary to proceed from the unconditional recognition of the principle of the inviolability of frontiers.⁵⁷

Having outlined the central role of territorial recognition in the relaxation of tension in Europe, Gromyko proceeded to specify what detente, or peaceful coexistence excluded:

It is obvious that cultural cooperation, development of contacts and exchange of information should be effected with full observance of the principles designed to govern relations between States participating in this Conference. Above all, this concerns the question of respect for the principles of sovereignty and nonintervention. A departure from this would be rightly considered an attempt to intervene in the affairs of others. We should avoid this; we should also abolish the psychological consequences of the 'cold war'; and this means strict observance of the laws, customs and traditions of each other.⁵⁸

The Soviet argument, as had been presented since the preparatory discussions, was that the Basket III provisions, at least as they were formulated by the West European delegations, did not take into account the sovereignty and the laws and customs of the East European delegations.

Much of Gromyko's opening speech was intended to illustrate that the requirements for improving detente had already been satisfied through bilateral agreements. Hence,

the CSCE was simply to confirm these agreements in a multilateral forum thereby creating a multilateral super-structure resting on an already formalized bilateral foundation. Central to this assertion were the Basic Principles of Relations Between the Soviet Union and the United States and the Soviet Union's treaties with France and the FRG.⁵⁹

In fact, Gromyko immediately seized the initiative in outlining the proper formulation of the principles in Basket I by submitting a proposal on the foundations of European security and the principles to guide relations among the states of Europe.⁶⁰ This document would become the basis for negotiation on Basket I during Stage II in Geneva.

An outward display of unity by the Warsaw Pact nations on the priorities of the Conference was projected in speeches presented by the foreign ministers of Poland, the GDR, Czechoslovakia and Bulgaria. Hungary and Romania followed the Soviet line on the need to limit Basket III issues to those which would improve the international climate as defined by the respective governments.⁶¹ It should be noted though, that various disagreements may have occurred among the East European leaders in private, regardless of the content of the speeches.

Predictably, what emerged from the speeches of the Warsaw Pact foreign ministers in Stage I was little more than

a confirmation of those views expressed in the preparatory discussions, but the differences were finally stated in the forum of the CSCE in a public session. Even though the representatives at Stage I adopted unanimously the procedures and organizational structure of the Final Recommendations, basic differences remained over the measures required to enhance detente. The negotiations in Geneva during Stage II would result in numerous stalemates due to this problem.

The West European Delegations

Following the long speech by Gromyko, and speaking as the representative of the European Economic Community (despite the fact that bloc negotiation was officially ruled out), the Danish Foreign Minister, K.B. Anderson, presented the first West European view of the Conference. He accentuated the need "to create a new dynamism for further developments" especially in the area of respect for human rights and fundamental freedoms which were "a prerequisite for real improvements in the overall political climate in Europe." In fact, Denmark had earlier submitted a draft of Basket III which was followed rather closely in formulating the provisions outlined in the Final Recommendations.⁶²

Anderson's statements were representative of many West European delegations in that he accentuated the role of human

rights in the growth of detente. He emphasized "the human dimension of international relations" and "the recognition of knowledge as the source of understanding" and the basis of detente.⁶³ Foreign Minister Scheel of the FRG was much more explicit when he stated:

Who does not notice everywhere in Europe today the urge for more contacts, more information, more meetings? The people wish to partake at long last in their daily lives of the fruits of detente, to feel it with their hands.⁶⁴

And Canadian Foreign Minister Sharp reiterated that the division of Europe should be overcome rather than solidified when he asserted the following:

Detente implies not the removal of differences in systems and ideologies, but their mutual acceptance and accommodation in the interests of greater cooperation, freer movement and more open communications among people as well as States. Competition yes, antagonism, no. Only in this way can the division of Europe be overcome.⁶⁵

But the inadequacy of Foreign Minister Sharp's statement was that, in the competition between the two ideological systems, the activities that were not advantageous to an East or West European country would be described as "antagonistic." Those same actions that were beneficial to one side or the other would be upheld as appropriate for detente. Foreign Minister Sir Alec Douglas-Home of the United Kingdom referred to the agenda on humanitarian cooperation as the most important item in the CSCE. He then quoted one of his predecessors, Mr.

Ernest Bevin, who had once been asked to summarize his foreign policy. Bevin responded:

I have only one. It is to be able to go down to Victoria Station in London, buy a ticket and go wherever I like without anybody demanding to see my passport.⁶⁶

In one of the first public exchanges over this issue, V. Osipov countered this statement in Izvestiia when he stated that:

we do not think that the essence of ensuring security is to be found only in the ability of an Englishman to go to Victoria Station in London...and travel anywhere he wants....After all, what is at stake is not travel for the sake of travel...we expect from this conference weighty decisions on the key questions of consolidating peace and security in Europe and providing reliable guarantees against a repetition of the horrors of war.⁶⁷

Such ambitious objectives would never be realized in the CSCE without a major shift in the negotiating positions of the participating nations and the strong words about humanitarian concerns of different kinds epitomized the great ideological and political division that was still a dominant feature of detente.

The neutral and non-aligned nations, which had played such an important role in the formulation of the agenda for Basket III, presented an interpretation of detente synonymous with the Western conception of the term. The position of the non-aligned states was represented by Sweden's Foreign Minister Wickham who noted that the specific problem of

divided families must attract the attention of the participants in order to "strengthen confidence in the sincere intention of governments to bring about a genuine detente."⁶⁸ And Wickham offered a warning that applied equally to all the participants:

If this Conference does not lead to a broader exchange of information and improved human contacts its value will be greatly diminished.⁶⁹

Likewise, Austrian Foreign Minister Kirchschrager pointed out that "man has to be the aim and centre of our policy" in order to strengthen peace and understanding in Europe.⁷⁰

But most importantly, the consistency that the neutral and non-aligned nations represented in the humanitarian category was not a feature of the American negotiating position. As shown in Chapter II, the Nixon administration's hesitancy to place the United States in the forefront of the CSCE was influenced by an improving relationship with the Soviet Union (a direct channel to solve pressing superpower problems) and also by a troubled period in trans-Atlantic relations. Thus, the American approach was two-sided: support for America's allies in Europe along with a continued effort to enhance superpower cooperation in the most pressing categories (including arms control, regional conflicts and economic trade relations). In his speech during Stage I, Secretary of State William Rogers stated:

The United States will continue to work closely with its allies in the Atlantic Alliance, which not only contributes to the security and independence of its members but is also seeking new ways to improve relations in Europe. With the nations of eastern Europe the United States has opened a new era of improved relations. We are dealing with each country in eastern Europe separately--determining our policy in accordance with the specific policies and actions of each and looking forward to a wider and more constructive association with all the nations in the area.⁷¹

Yet, this strategy, which appeared entirely feasible on paper, was proven unworkable in the CSCE. The most frequently overlooked aspect of the early American involvement in the CSCE is that the United States through the necessity of supporting its allies, was pulled into an open human rights controversy with the Soviet Union that Nixon and Kissinger had attempted to avoid. And domestic pressures, arising from human rights activists in the American Congress, forced a more public assault on the Soviet Union's human rights position in the CSCE.⁷²

Hence, it was possible to notice in Rogers' speech a strong advocacy of humanitarian provisions. He stated:

A fundamental aspect of our commitment is outlined in Section III of the Final Recommendations. I refer, of course, to the lowering of barriers to the freer flow of people, information and ideas among the participating States. This aspect of our work stems from the importance we attach to human rights and fundamental freedoms. There are few words that are so filled with meaning, so venerated

by people everywhere, as the words 'human rights and fundamental freedoms.'⁷³

Rogers specifically mentioned the reunification of divided families, the sharing of professional and intellectual experiences and a facilitation of travel and access to information.⁷⁴ This was the first major signal that the American delegation in the CSCE would begin to play a much more active role in the humanitarian provisions. Prior to this it was stated American policy (demonstrated in Nixon's address to the Soviet people) to avoid public criticism of the Soviet Union over issues of human rights.

In conclusion, the West European delegations at Stage I of the CSCE put forward an interpretation of detente that placed much emphasis on the central role of human rights. While this sentiment had earlier been limited to the small NATO nations, and the neutral and non-aligned ones, the United States emerged from stage I as a greater public supporter of Basket III issues. Without a consensus between East and West on how the future negotiations of the CSCE should proceed, or how to strengthen detente in general, the negotiations in Geneva during Stage II were sure to be both protracted and problematic.

STAGE II: THE NEGOTIATIONS IN GENEVA

As displayed in the sections above, the debate over the role of human rights in the CSCE was well developed by the time the delegations moved to Geneva for the official negotiating phase. Earlier studies of the CSCE have failed to reveal that these earlier debates were substantial and that scrutiny of them illustrates the continuity of the controversy.⁷⁵ These omissions render a thorough study of the CSCE difficult and hinder the analysis of the Soviet-American conflict over human rights of the later half of the 1970s.

For the purpose of examining the debates of Stage II, this section is divided into five sections: firstly, a brief discussion of why the Soviet leadership forged ahead with the CSCE even after it had become much broader than they had desired; secondly, analysis of the period from January to July 1974, which involved the debate over the Basket III preamble; thirdly, a study of the phase of negotiations from September 1974 to March 1975 and progress in the Human Contacts subsection and the "family package"; fourthly, examination of the negotiation from March to May 1975, by which time the American delegation was playing a much more influential role as agreements were reached on the formulation of Principle Seven and on the spread of information; and

finally, a few comments on the last minute concessions in June of 1975 and the completion of Stage II.

While an in-depth analysis of every aspect of human rights in the CSCE is beyond the scope of this study, the issues that are dealt with below are sufficient to outline the incompatibility of Eastern and Western perceptions of human rights. Clearly, the CSCE did not in the slightest bridge these differences. In actuality, the CSCE left the incongruities intact through the generalities of, and the relationships between, the words put together in the Final Act. This was the great failing of Final Act and limited its value as a human rights document.

The Soviet Leadership Presses Ahead

Before discussing the prolonged negotiation in Stage II, it will be beneficial to explore the Soviet reasoning for pressing ahead with the negotiations. This thesis challenges the argument that the Soviet leaders had no option except to continue, even in the face of an agenda that was expanding into politically sensitive issues such as human rights.⁷⁶

More importantly, was it necessary for the Soviet leaders to convene a security conference in order to confirm the territorial status quo in Europe at all? In fact, had detente progressed by the summer of 1973, to the point where

confirmation was implicit, if not an openly recognized fact of interstate relations in Europe?

Certainly, territorial recognition had been achieved through bilateral agreements before the CSCE, such as in the Soviet-West German Treaty (August 1970) and reaffirmed in the Soviet-French Declaration (October 1970) and in the Polish-West German Treaty (November 1970).⁷⁷ And it is difficult to see how a non-legally binding, multilateral statement (as all agreed that the Final Act would be a political rather than a legal document) would add to these bilateral agreements, except in symbolic terms, unless the Soviet delegation could tailor the document to their liking (which is virtually impossible in a multilateral negotiation). This is not to discount the political significance of the Final Act, or to reject that the Soviet leadership was seeking a broader political confirmation of the post-war arrangement of Eastern Europe. Rather, it is quite likely that the Soviet leadership was far too optimistic about controlling the agenda and attaining their own objectives without making any concessions. Finally, if this optimism was based on the possibility of the members of NATO negotiating independently, as earlier Warsaw Pact Political Consultative Committee statements suggested, then the Soviet leadership miscalculated seriously as the CSCE became a negotiation of blocs rather than individual states and actually cemented the

alliances (in many cases, even the neutral nations functioned as an "alliance").

Of special relevance for human rights in the CSCE, is the fact that many of the earlier bilateral agreements, which initiated more cooperative relations in Europe and which served Soviet purposes by confirming the permanence of territorial borders, also included humanitarian provisions. This must have alerted Soviet strategists to the West's preoccupation with this issue. The Quadripartite Agreement on Berlin (September 1971) and the subsequent agreements implementing the Quadripartite Agreement (December 1971 and May 1972) facilitated greater family and cultural exchanges, and may be viewed as a direct precursor to the third section of the Final Act dealing with "Cooperation in Humanitarian and Other Fields."⁷⁸

During the CSCE negotiations, the West Germans and the French were two of the most insistent advocates of the sections concerned with human rights. As the neutral nations began to seize upon the humanitarian provisions as their special area of interest, the Soviet delegates found themselves on the defensive in the very multilateral forum for which they had campaigned. This must have aroused much concern on the Soviet side, because the incorporation of human rights into the CSCE would not be nearly as easy to

manage, or downplay, as when similar provisions were included in bilateral agreements with far less publicity.

Since the complexion of the CSCE had changed dramatically by July 1973, should the Soviet delegation have pulled out of the CSCE altogether? Vacating the Conference must have been considered, especially since it would have been far less damaging politically than has been recognized.⁷⁹ Soon after the speeches were over in Helsinki during the official first stage, the CSCE was not a major issue in the newspapers or in the media. One seasoned diplomat has commented, in reference to the beginning of Stage II, that:

the contingent of journalists present on the first day dwindled rapidly and within a week had all but dispersed. Making sense out of what was happening was not easy.⁸⁰

Had the Soviet delegation decided to abandon the Conference, they could have manufactured a reason for leaving that would have limited the criticism in the press, especially since most journalists were having difficulty "making sense" out of events anyway. Also, the ceremonial first stage had given publicity to all the nations participating in the CSCE such that the perception that it was "Soviet sponsored" was fading. It was therefore unlikely that the success or failure of the Conference would be linked so indelibly to the Soviet Union. In any case, other international events such

as the Yom Kippur War in October 1973 and the negotiations for SALT II, overshadowed the CSCE.

Nevertheless, rather than pulling out of the Conference, the Soviet leaders favoured another option-restricting the agenda. Even after making numerous miscalculations in their ability to control the agenda, the Soviet delegation, with the support of its East European allies, could limit the value of the human rights provisions by interjecting restrictive clauses within the various provisions. Here the rule of consensus voting worked to the benefit of the Warsaw Pact nations, which constituted an alliance of at least five (the Soviet Union, Bulgaria, Czechoslovakia, the GDR and Poland) and sometimes seven (Hungary and Romania, although they were unreliable in the human rights area).⁸¹

Also, it was obvious that the CSCE, with thirty-five participants, could present little more than a collection of very general clauses on human rights. This would leave much room for the Soviet leaders to apply their own interpretation.⁸² And as stated above, the humanitarian provisions were to be implemented in the long-term, if they were to be enacted at all, while recognition of the permanence of borders in Europe would be instantaneous when the Final Act was signed.

January to July 1974: The Basket III Preamble

The negotiations in Stage II began in August 1973 in the newly constructed International Conference Centre in Geneva. The first few days of meetings, which involved informal contacts in the midst of a wave of journalists and television cameras, did not foretell the future course of the negotiations.⁸³ Soon, the sheer size of the Conference, and the complexity of the issues under consideration, would overwhelm the media and those not directly involved in the secret negotiations of Stage II.

As if to make sure that the Conference did not proceed too quickly, many of the Western delegations proposed a period of "general debate" in which positions could be clarified and the specific agendas for the committees agreed before actually getting down to work on the specific provisions. In retrospect, this period of general debate wasted much time and simply rehashed the work which had resulted in the Final Recommendations. But it did serve the purpose of reinforcing a much broader agenda and a longer time frame for the Conference--both contrary to Soviet objectives.⁸⁴

When the actual drafting of provisions finally began in January 1974, the immediate controversy in Basket III was centred on the formulation of a preamble. For NATO and the

nine members of the European Community, the preamble was not necessary, but the Warsaw Pact caucus insisted on some sort of preamble in order to qualify the Basket III provisions.

The debate over the preamble is useful to examine, because it foretold the negotiating strategies and objectives of the East and West European delegations in the specific subcommittees of Basket III and displayed an approach consistent with what had already been observed in the preparatory discussions. Bulgaria presented the Warsaw Pact version of the preamble, which was unacceptable to the Western delegations because of yet another attempt to create excessive governmental restrictions on humanitarian cooperation. The Bulgarians proposed that:

the Committee should proceed from the principles guiding relations among the participating States and...it should pay particular attention to the principles of sovereignty and non-intervention in internal affairs, and also to observance of the laws and customs of the participating States.⁸⁵

In contrast, proposals from Finland and the Netherlands provided only a general reference to the principles governing relations between States.⁸⁶ But the Soviet Basket III representative, Yuri Dubinin, was insistent that specific mention of the principles of non-intervention and respect for the laws and customs of states were necessary before the specific Basket III provisions could be discussed.⁸⁷

Finally, in February 1974, the West European delegations accepted that there would be a preamble to Basket III, in return for East European agreement to begin drafting of the specific provisions of Basket III. On paper, this was a dramatic blow to the Basket III provisions, because the Soviet leaders would repeatedly use the preamble to discount much of Basket III.

The issue of the preamble continued to dominate the discussion in Basket III until 26 July 1974 when the neutral nations offered a package of compromises. The complicated arrangement involved acceptance of a general reference to all the principles in Basket I, but in wording that made them apply, ostensibly, to "new ways and means" in the humanitarian area. Restating an earlier Finnish idea, the neutrals (Austria, Finland, Sweden and Switzerland) recommended placing the phrase, "laws and customs" in the Basket I principles, preferably as a feature of sovereign equality. Ultimately, the phrase was changed slightly and put in Basket I, paragraph 24 which reads:

The participating States will respect each other's sovereign equality and individuality as well as all the rights inherent in and encompassed by its equality, to territorial integrity and to freedom and political independence. They will also respect each other's right freely to choose and develop its political, social, economic and cultural systems as well as its right to determine its laws and regulations.

This is the first principle in Basket I and even though paragraph 70 states that "all the principles set forth above are of primary significance...", the location of the first principle tends to overaccentuate its importance. According to Soviet statements after the Conference (presented in Chapter III), this principle was one of the aspects of the Final Act of primary significance. It included respect for sovereign equality, territorial integrity and the right of each nation to determine its laws and regulations. These three concepts formed the foundation for building security, from the Soviet perspective, and the neutral nations' plan for Principle One was acceptable to the Soviet delegates.

But in return, the East European delegations were to accept a clause on the responsibility of States to implement the provisions of the CSCE. The clause would be entered within the principle on the fulfillment of international obligations (which is where it was finally placed in the Final Act along with another reference to the right of the participating states to determine their laws and regulations, paragraph 68). Anticipating that the Soviet delegation would incorporate further clauses on state control in the mini-preambles to each specific human rights section of Basket III (human contacts, information, cultural and educational exchange), the whole package was tentative until the mini-

preambles had been negotiated, along with many of the other provisions of Basket III.

This procedural compromise did not in any way force Western views on the Soviet delegation, but it did break the impasse over the preamble and allowed the discussion over Basket III's provisions to get under way.⁸⁸ Thus, a portion of the preamble reads:

Convinced that this cooperation should take place in full respect for the principles guiding relations among participating States as set forth in the relevant document....⁸⁹

This general reference to the Declaration on Principles Guiding Relations between Participating States would be sufficient for the Soviet leaders to evoke the specific principle of non-intervention in internal affairs above all others, even though the Final Act emphasized the equality of all the principles.

Before examining the discussions on human contacts, it should be noted that the Soviet leadership campaigned for a conclusion to Stage II in the autumn of 1974. When this proved impossible, there were Soviet calls for a conclusion as soon as possible in 1975. This crusade was carried out in three fora: in meetings with leaders from East European nations; during visits with West European representatives; and in talks with Finnish intermediators which Soviet strategists hoped would encourage concessions from the other

neutral and non-aligned nations, especially in issues in Basket III. Brezhnev had hoped that the CSCE would conclude in 1972 and, by 1975, he was particularly anxious to complete the Helsinki Final Act.

In April 1974, the Political Consultative Committee of the Warsaw Pact issued a statement on the CSCE that was seven paragraphs in length. While the progress toward conclusion was noted, this declaration reflected discomfort over the broadened agenda and chastised the following:

attempts to create artificial obstacles, to drag out the work of the all-European conference and to divert it from the solution of the vital tasks with which it is faced run counter to the lofty goals in the name of which this conference was convened.⁹⁰

This opposition to the growing attention paid to issues of human rights was reemphasized in later statements from bilateral meetings between countries in Eastern Europe.⁹¹ These sessions allowed the governments of Eastern Europe to coordinate their policy toward the CSCE and to create a broader consensus on the need to finish as soon as possible.

The Soviet leaders also decided to meet individually with representatives from West European governments to solve controversies evolving in the CSCE.⁹² While these meetings were intended primarily to influence a specific government, there were cases when Soviet representatives were successful in obtaining pledges from West European leaders that they

would negotiate with others to break deadlocks in Geneva.

For example, Georges Pompidou stated:

In order to move forward with what has begun, we intend to promote [a successful conclusion of the CSCE] by influencing the European Economic Community and our partners.⁹³

Even if Pompidou could not influence his West European partners, these diplomatic consultations allowed for more extensive discussion of the CSCE in a much narrower forum.

But a third negotiating bloc posed special problems for the Soviet leadership: the neutral and non-aligned countries. In an effort to temper the enthusiasm of these nations for the humanitarian provisions, Soviet representatives met on numerous occasions with officials from Finland.⁹⁴ While there are no indications that the Finns were successful, or even attempted to modify the views of the neutral and non-aligned delegates in Basket III, it is clear that the Soviet leaders encouraged them to try. In fact, Soviet officials even agreed to discuss a Finnish proposal for a nuclear free zone, but only after the CSCE was completed and perhaps in return for Finnish action in Basket III.⁹⁵

By the autumn of 1974, the Soviet effort to finish the CSCE was apparent not only in Geneva, but also in numerous bilateral meetings outside the CSCE. These undertakings, however, did not solve the differences in the Conference which continued into 1975.

September 1974 to March 1975: Human Contacts and the "Family Package"

The negotiations in Subcommittee I on Human Contacts were especially significant for two reasons. Firstly, since the issues in Subcommittee I were a priority for the Western delegations, the Soviet leadership linked progress in this category with progress on the principle of the inviolability of frontiers early on in the Conference. Secondly, even though an enforcement mechanism for the provisions in this subcommittee were nonexistent, the documentation still displays a Soviet effort to limit the commitments of the participants in this category.

Even though it was not clear at the beginning of Stage II, the human contacts subcommittee was drafting provisions which fell into eight sections: the mini-preamble; contacts and regular meetings on the basis of family ties; reunification of families; marriage between citizens of different states; travel for personal or professional reasons; improvement of conditions for tourism; meetings among young people; and expansion of contacts and exchanges in the field of sport. The first three of these categories (following the mini-preamble) made up the so-called "family package."

Early proposals on the "family package" provisions were submitted by Denmark, the FRG, Italy, Norway and Canada.⁹⁶ In summary, the Western proposals called for provisions to allow persons "to enter and to leave a participating State temporarily in order to visit members of their family" (Denmark); agreement that the "costs of the application and travel documents [for reuniting families] should not represent an unduly heavy burden for the applicant" (FRG); and understanding that "applications in this field should not have any adverse effects for the individuals concerned" (Denmark). The Western argument was that unwilling separation of families is "an impediment to the strengthening of peace and understanding among the peoples of the participating States...."⁹⁷ Again, this reflected a different perspective on the meaning of detente than that presented by the East European delegations.

In contrast, the original Bulgarian-Polish proposal was most striking in that it placed "family package" issues in a strictly bilateral forum to be dealt with after the CSCE. Also, any changes in then existing policies in this regard were "subject to mutually agreed conditions" which meant, in effect, that the East European governments could still limit contacts between families if they so desired. By retreating to the position that most of Basket III would have to be discussed in bilateral talks, the Soviet and East European

delegations assured themselves that they could better control the negotiation and implementation of such matters as the reunification of families. It would force a country-by-country approach rather than a pledge to alter general policy. The major positive aspect for the West European nations was that eventually such matters would have to be organized in bilateral discussions anyway, but ideally, these later specific arrangements would be the result of a general change in policy articulated in the CSCE.

The initial breakthrough in the family package came in March 1974 caused by a controversy in Basket I over the principle of the inviolability of frontiers. The delegation from the FRG had insisted that a clause protecting peaceful changes (such as the possibility of future German reunification) appear within the inviolability of frontiers principle.⁹⁸ Conversely, the Soviet delegation refused to accept a reference to the right of peaceful changes of borders, arguing that the FRG-Soviet treaty did not contain such a clause, hence, the Final Act should not either.⁹⁹

Because of the very high priority attributed to the principle of the inviolability of frontiers by the Soviet leadership, a move was made to settle the impasse during the week of 16 March. The Soviet delegation agreed to early registration of part of the family package--"Contacts and Regular Meetings on the Basis of Family Ties," but difficul-

ties remained because the FRG and other Western delegations expected more in return for the Soviet leaders' top priority.¹⁰⁰ Again the Soviet delegation agreed to accept a Basket III text, this time on the dissemination of printed information. After hints that further compromises over Basket III were forthcoming after registration of the principle of the inviolability of frontiers, the Western delegations agreed to a Spanish compromise which proposed that the phrase "peaceful change" appear somewhere within the principles, but not within the inviolability principle itself. On 5 April, the inviolability of frontiers principle was provisionally registered after acceptance with reservation from the FRG.

The final draft of the first of three sections of the family package appeared virtually identical to the version of 16 March (Final Act paragraphs 430-433). Yet its wording is weak as it states that the participating states will "favourably consider" application from citizens who wish to leave or enter their country in order to visit family members. Furthermore, documentation for such travel will be satisfied within "reasonable" time limits and fees will be "acceptable." Many of these phrases were imprecise and extremely open ended which must have assisted the early agreement in this area.

This left two other sections of the family package unresolved--Reunification of Families and Marriage Between Citizens of Different States. The first was registered on 3 December 1974, after eight months of negotiation.¹⁰¹ Once again, the provisions, while more extensive than earlier Soviet and East European formulations, were general and non-committal by calling for reunification "as expeditiously as possible."¹⁰² The Western delegations did, nevertheless, achieve wording that applied directly to Soviet and East European practices in this area. For example, application fees would be charged only when applications were accepted and reunification granted, which it was hoped would modify a common Soviet practice of charging application fees even in cases where reunification was denied.¹⁰³

The final section of the family package was intended to facilitate marriages between citizens of different states. It was finally registered in late December of 1974.¹⁰⁴ The text asserts that this aspect of human contacts will be carried out "in accordance with the provisions accepted for family reunification" which causes the same problems of generality. Moreover, these matters still depended entirely on the individual governments concerned, making marriages dependent on the goodwill of the participating states (although this is not to deny that marriages that are paid

for in order to acquire citizenship in a particular country should be subject to strict governmental scrutiny).

The rest of the text on Human Contacts was for the benefit of tourism, professional exchanges, meetings among young people and the growth of sport competitions. But even in these areas, the delegations from Eastern Europe strove to moderate contacts until detente had developed to the "appropriate level" and also to limit contacts to those that benefited detente.¹⁰⁵ In March 1973 in an official statement on the expansion of cultural cooperation, contacts among organizations and peoples, and the dissemination of information, Soviet representatives argued that a broadening in these areas should:

serve the mutual spiritual enrichment of the peoples, the growth of trust among them and the strengthening of the ideas of peace and good-neighborliness.¹⁰⁶

From the Soviet perspective, detente had been initiated by the Soviet Union.¹⁰⁷ Hence, the Soviet leaders surmised that they were the best judges of what activities would help to continue or improve upon detente. Other individual governments were also to decide if they approved of specific measures, but in the end an agreement would have to be mutually acceptable to governments of antithetical political systems. The prospects for an upsurge in human contacts were, therefore, very slim.

March to May 1975: The US Position Hardens as Principle Seven and Basket III's Information Subsection are Completed

Before discussing the negotiations leading to the formulation of Principle Seven of Basket I and the information subsection to Basket III, it will be useful to present the American negotiating position as it began to evolve late in 1973 through to the resignation of President Nixon and the succession of Vice-President Ford. As articulated in the speeches of Secretary of State Rogers during Stage I, the American role early on in the CSCE was not to lead the Western delegations as much as to support their negotiating positions. But the American position became much more firm due, in large part, to three events.

The first event influencing the American negotiating position was war in the Middle East in October 1973. Syria and Egypt attacked Israeli positions on the Golan Heights and Suez Canal on 6 October. In the ensuing days, the Soviet leadership, concerned about an ongoing Israeli counter-offensive, proposed a joint Soviet-American intervention. The Nixon administration rejected the plea and put US forces on worldwide alert on 24-25 October, as both sides appeared to contemplate unilateral intervention. The impending crisis unravelled quickly as Kissinger's shuttle diplomacy eventual-

ly led to a peace conference in December and a Middle East settlement in May 1974. But the October War revealed the following problems: detente had not solved the difficult problem of regional conflicts of interest; America's allies still did not whole-heartedly agree with the definition of these regional interests (the NATO allies did not support a US airlift to Israel, and also feared superpower condominium); and most important of all, domestic suspicion in the USA of the Soviet Union was aroused and the success of the Summit process was called into question. One author has summarized this dilemma as follows:

The very idea of cooperative US arrangements with the Soviet Union to moderate rivalry and avoid dangerous crises triggers suspicions in other countries of the formation of a superpower condominium at their expense and arouses fears of old-fashioned spheres of influence...[and] There is the ever-present likelihood that someone in the executive branch, in Congress, or among vocal interest groups will be quick to charge that the administration is insufficiently attentive to the need to protect American interests abroad.¹⁰⁸

Thus, the October War aroused domestic forces into pressuring the Nixon administration to take a harder line in dealing with the Soviet leaders.

The second major influence on the American human rights position in the CSCE was the domestic quarrel over the 1972 Trade Agreement between the United States and the Soviet Union. Congressional leaders isolated only one aspect of the

human rights issue--Jewish emigration from the Soviet Union--which would have to increase alongside an escalation in trade if the US Senate were to ratify the agreement. This meant that Kissinger, unwillingly, had to press this issue on the Soviet leaders. In a speech delivered on 8 October 1973 at the Pacem in Terris Conference, Kissinger had already realized the complexity of this problem:

Until recently the goals of detente were not an issue. The necessity of shifting from confrontation toward negotiation seemed so overwhelming that goals beyond the settlement of international disputes were never raised. But now progress has been made--and already taken for granted. We are engaged in intense debate on whether we should make changes in Soviet society a precondition for further progress, or indeed for following through on commitments already made....This is a genuine moral dilemma.¹⁰⁹

The Nixon administration never solved this dilemma. The Soviet leaders rejected any attempt to link improvement in trade with emigration practices and the Trade Act of 1972 dissipated, but did not have a direct detrimental effect on the CSCE.

But the American human rights stance in the CSCE was boosted by yet another moral dilemma--Watergate. By 7 August 1974, the impeachment proceedings against President Nixon had gathered too much momentum for him to remain in office. On 8 August, he resigned. In the months immediately preceding his resignation, the administration was much more active in the

CSCE on the human rights front. It is plausible that a stronger stance on human rights was intended to boost the image of an administration whose ethics were under fire from the US Senate and the American media. The administration was also beginning to realize that a Final Act without human rights provisions would lead to further criticism that the administration was being too weak in dealing with the Soviet leadership. Furthermore, as Vice-President Ford succeeded the former president, he was determined to display a continuity in American foreign policy. By keeping Henry Kissinger as Secretary of State and National Security Advisor, and by maintaining an assertive role for the American delegation in the CSCE (which would satisfy the allies of the United States), he had taken positive steps in this direction.

With this short overview of events that influenced the American negotiating team in Geneva, it is necessary to turn to two more aspects of the negotiations over human rights in the CSCE: Principle Seven and Basket III's information subsection. As regards Principle Seven, visible American involvement was minimal, precisely because the United States played a lesser role in the early stages of the CSCE. But many of the issues of Basket III were resolved late in the CSCE when the American delegation was active for the reasons mentioned above.

In retrospect, the most significant human rights negotiation was actually taking place in Basket I, rather than in Basket III. This fact, which is frequently overlooked by Western commentators, was obvious to the Soviet delegation. As far as the Soviet representative were concerned, Basket I was the single most important section of the CSCE--a point that was proven when the Soviet representatives campaigned, yet again, for a Basket I signed at the highest level with the other baskets approved by lower level representatives.¹¹⁰

Hence, the determination of the Western delegations to include an extensive human rights principle posed one of the most difficult problems of the CSCE for the Soviet delegation. The Western model for the human rights principle, or Principle Seven, was submitted by the United Kingdom in a draft which was specific about the need to reaffirm existing United Nations' obligations, especially those provisions outlined by Article 55 of the Charter.¹¹¹ According to the delegation of the United Kingdom, respect for the observance of human rights, as specified in the already existing obligations of the UN was "clearly central to the purpose of the CSCE."¹¹² The specific rights and freedoms mentioned included freedom of thought, conscience, religion or belief, but reference to the UN meant inclusion of all the United Nation's provisions in this regard.

In contrast, the Soviet proposal for Principle Seven was short and far less committal. It stated that the participating states would agree to have:

respect for human rights and fundamental freedoms, in accordance with which the participating States will respect human rights and fundamental freedoms, including freedom of religious belief.¹¹³

The United Kingdom's proposal was modified only slightly and was resubmitted nine months later, which displayed the intransigence of the Western nations in compromising on Principle Seven.

After fifty-six negotiating sessions, the West created a human rights principle that was, in Maresca's words, "a solidly worded Western achievement."¹¹⁴ The major breakthrough came on 20 November 1974 when the East European delegations agreed provisionally to register Principle Seven. This text was appealing to the Western delegations because it went a step further than calling for mere respect for human rights and expressed encouragement in the actual exercise of them.¹¹⁵ The Soviet delegation reluctantly accepted a phrase in the draft sponsored by the Holy See which called for freedom of thought and conscience individually, or in community with others. To the Soviet leaders, this was tantamount to accepting, in principle, political pluralism because the West European representatives also had in mind the ability of second and third political

parties to compete freely in East European nations. Even so, the Soviet delegation compromised in order to get the Conference moving in the hope of achieving a signing of the Accords early in 1975.¹¹⁶ But the Soviet representatives still had to make concessions, at least cosmetically, in Basket III's information section.

The Basket III negotiations over the dissemination of information, which were carried out in Subcommittee 9, are mentioned here for two reasons: firstly, to emphasize the extent of Western ambitions in this category; and secondly, because the United States delegation was very insistent on this issue. Unfortunately, the result in Subcommittee 9 was a text with great ambitions, but with no enforcement or implementation mechanism.

Two very ambitious proposals on the dissemination of information fell by the wayside early on in the negotiations. Both proposals were submitted by the United Kingdom. The first, labelled "Linked television discussion programmes on foreign affairs," did not gain acceptance from the other Western delegations and, as expected, was rejected by the East European delegations.¹¹⁷ The second proposal, entitled "New International Magazine," was also rejected by the Western nations because of fears that it would simply become a Soviet propaganda tool.¹¹⁸ Other Western proposals were ultimately included in the final text, such as the wider

dissemination of newspapers, periodicals, films, information broadcast by radio (the American delegation was most active on this issue), as well as improvement in the working conditions of journalists. Again, the value of these provisions could not be determined until after the CSCE because enactment was left to the individual states.

As was expected, based on the experiences of the preparatory discussions, the East European delegations resisted Western attempts to widen the flow of information. The breakthrough in the information section was initiated by a NATO effort to draft a final text even though there was much disagreement.

The proposals, labelled the "Global Initiative," were a patchwork of provisions including those that were already agreed on and those that were still under dispute in the Information and Human Contacts subsections. On 15 May 1975, the initiative was presented to the Soviet Union and, if it was accepted, the prospects for an imminent summit conclusion would be enhanced. When Kissinger and Gromyko met in Vienna later in May, Kissinger pressed the Soviet Foreign Minister to accept the "Global Initiative" and displayed a much stronger stance on human rights than the Soviet leaders had previously witnessed from the American Secretary of State.¹¹⁹ Kissinger's assertiveness led to a Soviet response to the initiative which resolved most of the remaining issues and

after numerous informal meetings in June the Finns made plans for Stage III to be held at the end of July.

STAGE III: THE CEREMONIAL SIGNING

The heads of state of the thirty-five participating nations gathered in the Finlandia Hall in Helsinki on 1 August 1975 to sign the Final Act. After nearly three years of intense negotiation, the results of the CSCE were finalized in only three days. The leaders of each nation presented speeches on the significance of the Conference and on their interpretation of what the final document contained.

Quite predictably, the speeches in Helsinki reiterated the positions presented in 1973 in Stage I. The Soviet General Secretary, Leonid Brezhnev reaffirmed the stance of the Warsaw Pact that the territorial status quo was confirmed:

The Soviet Union regards the results of the Conference not merely as a necessary summing up of the political outcome of the Second World War. This, at the same time, is an insight into the future in terms of the realities of today and of the age-old experience of European nations.¹²⁰

In a different spirit, in a section of his presentation aimed at the Warsaw Pact nations, American President Gerald R. Ford stated:

We will spare no effort to ease tensions and solve problems between us. But it is important that you recognize the deep devotion of the American people and their Government to human rights and fundamental freedoms and thus to the pledges that this Conference has made regarding the freer movement of people, ideas and information.¹²¹

These two speeches confirmed that the Helsinki Final Act had not defined the meaning of detente and had not provided a blueprint for future conduct to build upon the improved relations in Europe. This would become apparent in the period following the completion of the CSCE as the Soviet Union and the United States began to interpret and apply the Final Act to superpower relations. Chapter III presents these antithetical interpretations.

ENDNOTES

1. Richard Dean cites 1973 as the year in which the divergent purposes of the East and West European delegations emerged in the CSCE. Harold Molineau is incorrect when he states, "Neither the Warsaw Pact nor the NATO countries anticipated the attention that was given to human rights at the conference." Harold Russell argues that the fact that the Soviet delegation accepted a separate human rights principle was regarded by some as a miracle, but he does not reveal that Soviet resistance began much earlier than in Stage II. See, Dean, Richard N., "Beyond Helsinki: The Soviet View of Human Rights in International Law," Virginia Journal of International Law, Vol. 21 (1980), p. 55; Molineau, Harold, "Negotiating Human Rights: The Helsinki Agreement," World Affairs, Vol. 141, no. 1 (1978), p. 25; Russell, Harold S., "The Helsinki Declaration: Brobdingnag or Lilliput?" American Journal of International Law, Vol. 70, no. 2 (1976), pp. 268-9.

2. Palmer, Michael, The Prospects for a European Security Conference (London: Chatham House, Political and Economic Planning Organization, 1971), pp. 88-9.

3. The thirty-two European nations were: Austria, Belgium, Bulgaria, Cyprus, Czechoslovakia, Denmark, Finland, France, German Democratic Republic, Federal Republic of Germany, Greece, Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, The Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, Union of Soviet Socialist Republics, United Kingdom, Yugoslavia. Albania refused to attend and Monaco did not participate in the preparatory talks. With the participation of the United States and Canada, the participants numbered thirty-four in the preparatory discussions and thirty-five during stages I to III.

4. Valerian Alexandrovich Zorin was born in 1902. He was Deputy Minister of Foreign Affairs, 1947-1955; permanent Soviet representative, UN Security Council, 1952-1953; Soviet Ambassador to the FRG, 1955-1956; active in disarmament negotiations, 1957-1962; Ambassador to France, 1965-1971. After 1971, Zorin was ambassador-at-large for human rights. He died in January 1986. See Diplomaticheskii slovar' (Moscow: Izdatel'stvo politicheskoi literatury, tom I,

1971), p. 564. For an indication of early Soviet objectives see, Pravda, 13 December 1972 in Current Digest of the Soviet Press, Vol. 24, no. 50 (10 January 1973), pp. 1-3.

5. Ferraris, Luigi, Report on a Negotiation: Helsinki-Geneva-Helsinki, 1972-1975, translated by Marie-Claire Barber (Geneva: Sijthoff & Noordhoff Publishers BV, 1979), pp. 14-15. See also Pravda, 4 February 1973, pp. 1,4 in Current Digest of the Soviet Press, Vol. 25, no. 5 (28 February 1973), p. 25; Pravda, 20 February 1973, p. 5 in Current Digest of the Soviet Press, Vol. 25, no. 8 (21 March 1973), p. 20.

6. Ferraris, p. 13 (13 December 1972).

7. Ibid, p. 20.

8. Ibid.

9. Izvestiia, 7 March 1973, p. 2 in Current Digest of the Soviet Press, Vol. 25, no. 10 (4 April 1973), p. 24.

10. Ibid. Also, Ferraris, pp. 28-9 (6 April 1973). Brezhnev later stated that he had wanted the CSCE to finish its work in 1972. See, Pravda, 11 March 1974, pp. 1-2 in Current Digest of the Soviet Press, Vol. 26, no. 10 (3 April 1974), pp. 5-6.

11. Ferraris, pp. 28-9 (6 April 1973).

12. Ibid.

13. Ibid, p. 26.

14. Ibid, p. 25. The Soviet delegation campaigned for an explicit mention of most-favoured-nation trading status throughout the Conference. See, Pravda, 21 January 1975, p. 4 in Current Digest of the Soviet Press, Vol. 27, no. 3 (12 February 1975), p. 19.

15. Direct appeals to the EEC for increased trade were made by the countries of the CMEA in a communique from the World Congress of Peace Forces held in Moscow from 25-31 November 1973. See Pravda, 3 November 1973, p. 1 in Current Digest of the Soviet Press, Vol. 25, no. 44 (28 November 1973), p. 17. Also see an earlier appeal for "business-like relations" between the EEC and CMEA made by Brezhnev on the fiftieth anniversary of the formation of the Union of Soviet Socialist Republics in Pravda, 22 December 1972, pp. 2-5 in

Current Digest of the Soviet Press, Vol. 24, no. 51, pp. 3-20.

16. According to one Soviet statement, "it must be remembered that the fruitful development of economic and cultural ties and the effective solution of human problems are possible only if the threat of war is removed." From the Soviet perspective, an EEC which included closer military ties would simply increase the potential for war and lessen the chances for broader economic exchanges. See, Izvestiia, 11 September 1973, p. 3 in Current Digest of the Soviet Press, Vol. 25, no. 37 (10 October 1973), p. 16.

17. Ibid.

18. Ferraris, p. 24 (15 March 1973).

19. A Western commentator noted that "in 1969, one Soviet journal had acknowledged that the 'exacerbation of the international situation'--that is, the three crisis years, 1967, 1968, 1969--had 'prevented us from making the full quota of appropriations intended for agricultural investment.'" (From Finansy SSSR, no. 3, 1969, p. 16) in Gelman, Harry, The Brezhnev Politburo and the Decline of Detente (Ithaca: Cornell University Press, 1984), pp. 125-6.

20. Soviet spokespersons claimed that their draft of the principles for Basket I, submitted on 22 January 1973, was the most appropriate for enhancing collective security in Europe. Questions such as human rights were raised, it was asserted, as a by-product of the "unseemly maneuverings of certain 'Atlantic' figures." Pravda, 4 February 1973, pp. 1,4 in Current Digest of the Soviet Press, Vol. 25, no. 5 (28 February 1973), p. 25. See also, Pravda, 20 February 1973, p. 5 in Current Digest of the Soviet Press, Vol. 25, no. 8 (21 March 1973), p. 20.

21. Ferraris, pp. 16-17.

22. See, Pravda, 5 January 1973, p. 4 in Current Digest of the Soviet Press, Vol. 25, no. 1 (31 January 1973) p. 18. Also see, Pravda, 21 January 1973, pp. 1,4 in Current Digest of the Soviet Press, Vol. 25, no. 3 (14 February 1973), p. 16.

23. Pravda, 22 December 1972, pp. 2-5 in Current Digest of the Soviet Press, Vol. 24, no. 51 (17 January 1973), pp. 3-20.

24. Ibid. See also, Izvestiia, 7 March, 1973, p. 2 in Current Digest of the Soviet Press, Vol. 25, no. 10 (4 April 1973), p. 24.

25. Ferraris, p. 18 (7 February 1973).

26. Ibid (8 February 1973).

27. Ibid (7 February 1973).

28. Ibid.

29. The Soviet desire to include only these principles in the preamble was reiterated in Pravda, 4 December 1973, p. 5 in Current Digest of the Soviet Press, Vol. 25, no. 49 (2 January 1974), p. 17.

30. Ferraris, p. 30.

31. Ibid, p. 28.

32. Ibid, p. 18. Georgi Arbatov stated that peaceful coexistence meant that certain types of information would, in fact, be curtailed. He specifically mentioned subversive propaganda, ideological sabotage, lies and slander. Arbatov also stated that President Nixon had agreed to stop spreading these kinds of information in the Basic Principles Agreement. See, Izvestiia, 22 June 1972, p. 1 in Current Digest of the Soviet Press, Vol. 24, no. 25 (17 July 1972), pp. 4-6.

33. "Final Recommendations of the Helsinki Consultations," in Kavass, Igor I. and Granier, Jacqueline Paguin and Dominick, Mary Frances, Human Rights, European Politics, and the Helsinki Accord: The Documentary Evolution of the Conference on Security and Co-operation in Europe 1973-1975, Vol. I (New York: William S. Hein and Co., 1981), pp. 5-27.

34. The relevant committees and sub-committees were:

Committee I, Sub-Committee I, "Principles"
Committee III, Sub-Committee 8, "Human Contacts"
Committee III, Sub-Committee 9, "Information"
Committee III, Sub-Committee 10, "Cultural Exchange"
Committee III, Sub-Committee 11, "Educational Exchange"

35. See The Times, 29 May 1973, p. 6; Pravda, 3 November 1973, p. 1 in Current Digest of the Soviet Press, Vol. 25, no. 44 (28 November 1973), p. 22; Pravda, 3 October 1973, p. 1 in Current Digest of the Soviet Press, Vol. 25, no. 40

(31 October 1973), p. 15; Izvestiia, 17 April 1974, p. 2 in Current Digest of the Soviet Press, Vol. 26, no. 16 (15 May 1974), p. 22.

36. Ferraris, p. 79.

37. Pravda, 13 December 1972, p. 5 in Current Digest of the Soviet Press, Vol. 24, no. 50 (10 January 1973), pp. 1-3.

38. For an example of Soviet campaigning for a joint Bulgarian-Polish draft document in Basket III see, Pravda, 4 December 1974, p. 5 in Current Digest of the Soviet Press, Vol. 25, no. 49 (2 January 1974), p. 17.

39. Soviet complaints about the broadening of the agenda continued throughout the CSCE. One such accusation was that reactionary circles in the West were "attempting to establish artificially a connection between questions of security in Europe and other international problems...." Izvestiia, 11 September 1973, p. 3 in Current Digest of the Soviet Press, Vol. 25, no. 37 (10 October 1973), p. 16. See also, "Mezhdunarodnye otnosheniia i ideologicheskaia bor'ba," Kommunist, No. 14 (September 1973), pp. 3-23.

40. Izvestiia, 25 July 1973, p. 4 in Current Digest of the Soviet Press, Vol. 25, no. 30 (22 August 1973), p. 33.

41. Some of the most determined delegations included: France, the FRG, Finland, the Holy See, Denmark, the Netherlands, the United Kingdom, Yugoslavia and later on, the United States.

42. Kavass (et. al.), Volume 15, CSCE/I/15, Geneva, 5 July 1973, p. 111.

43. Pravda, 4 December 1973, p. 5 in Current Digest of the Soviet Press, Vol. 25, no. 49 (2 January 1974), p. 17.

44. Ferraris, p. 28.

45. Ibid, p. 59.

46. Izvestiia, 8 October 1974, p. 3 in Current Digest of the Soviet Press, Vol. 26, no. 40 (30 October 1974), p. 24.

47. Ferraris, pp. 59-60.

48. Ibid, pp. 60-61.

49. Ibid.

50. The New York Times, 12 April 1972, p. 3. This was the eighth cultural agreement between the two nations. This agreement was unique because it advocated guest lectures by university lecturers from the foreign country. See also, Ibid., 25 January 1972, p. 5. During their summit in May 1972, Nixon and Brezhnev noted the special significance of these agreements. Ibid., 30 May 1972, p. 18. See also, Dimitrov, Boyko and Kulishev, Liuben and Stefanov, Gheorgi and Koutikov, Vladimir, "Mezhduevropeiskie Otnosheniia pred 70-te godini, Mezhdunarodnye otnosheniia, Vol. 2, no. 2 (1973), pp. 12-33.

51. The New York Times, 16 December 1972, p. 47.

52. Ferraris, p. 60.

53. Barabash, Yu. Ya., "Cultural Exchange for Peace and Detente" in Brezhnev, L., Along the Path Blazed in Helsinki, (Moscow: Progress Publishers, 1980), pp. 155-168.

54. Intergovernmental Conference on Cultural Policies in Europe, Helsinki, 19-28 June 1972, UNESCO (Paris, 22 September 1972). The relevant provision is located within the General Recommendation in which the European member states pledge to:

continue to promote cultural cooperation in a spirit of respect for the principles of international law and the ideals of the United Nations, national independence and sovereignty, equality of rights, non-interference in internal affairs and the furtherance of mutual advantage....(p. 19).

55. The phrase "psychological warfare" would be used by Soviet officials on a regular basis and will be presented in Chapter Three.

56. The Finnish Executive Secretary had stipulated that the order of speakers in Stage I would be based on a first-come-first-served basis. Because the Soviet leaders had placed such great emphasis on the political significance of the CSCE, a junior diplomat was directed to stand at the door of the Finnish foreign ministry the night before the appointed day of registration. After having spent the entire night in the cool Spring air of Helsinki, the diplomat was first to sign the speakers list the following morning.

Indicative of their lackadaisical attitude toward the CSCE, the Americans were not even aware of the sign-up procedure and were listed to speak last. Secretary of State Rogers did not realize this oversight until arriving in Helsinki and only a generous gesture by the Finns allowed Rogers to speak twenty-first instead of last. This episode is related in Maresca, John J., To Helsinki: The Conference on Security and Cooperation in Europe, 1973-1975, (Durham: Duke University Press, 1985), pp. 39-40.

Early American indifference to the CSCE was confirmed even further through two interviews, of former Finnish representatives at the CSCE, in Helsinki in January 1984. The first interview was of Jaakko Iloniemi, who functioned as Executive Secretary during the CSCE. The second interview was of Jukka Nevakivi, who served various secretarial and negotiating functions in Basket III.

57. Kavass, Volume 1, CSCE/I/PV.2, Helsinki, 3 July 1973, pp. 54-5.

58. Ibid, p. 60.

59. See, "Text of Basic Principles, May 29" Department of State Bulletin. Volume 66 (June 26, 1972), pp. 898-899; and Federal Republic of Germany-Union of Soviet Socialist Republics: Non-Aggression Treaty (Moscow, August 12, 1970) in 9 International Legal Materials 1026 (1970); French-Soviet Declaration (Moscow, October 13, 1970) in 9 International Legal Materials 1165 (1970).

60. Kavass, Volume 1, CSCE/I/3, Helsinki, 4 July 1973, pp. 357-361.

61. Ibid, CSCE/I/PV.2, Helsinki, 3 July 1973, pp. 71-80; CSCE/I/PV.3, Helsinki, 4 July 1973, pp. 82-103; CSCE/I/PV.4, Helsinki, 4 July 1973, p. 137; CSCE/I.PV.6, Helsinki, 5 July 1973, pp. 239-266; CSCE/I.PV.4, Helsinki, 4 July 1973, pp. 153-163.

62. Ibid, CSCE/I/PV.2, Helsinki, 3 July 1973, p. 64.

63. Ibid, p. 68.

64. Ibid, CSCE/I/PV.3, Helsinki, 4 July 1973, p. 94.

65. Ibid, CSCE/I/PV.4, Helsinki, 4 July 1973, p. 152.

66. Ibid, CSCE/I/PV.5, 5 July 1973, p. 200.

67. Izvestiia, 23 August 1973, p. 4 in Current Digest of the Soviet Press, Vol. 25, no. 34 (19 September 1973), pp. 9-10.

68. Ibid., CSCE/I/PV.4, 4 July 1973, p. 145.

69. Ibid.

70. Ibid., CSCE/I/PV.5, 5 July 1973, p. 220.

71. Ibid., CSCE/I/PV.5, 5 July 1973, p. 230. According to Finnish Executive Secretary Jaakko Iloniemi, "Their [the American delegation's] primary objective seemed to be to prevent conflict within the alliance." Interview, Helsinki, January 1984.

72. The problem of linking trade with human rights is dealt with later in this study, but it should be noted that part of the Congressional activism in this area was fed by Soviet crackdowns on dissidents. See, the The New York Times, 2 December 1972, p. 14; 19 December 1972, p. 1.

73. Kavass, Volume 1, CSCE/I/PV.5, 5 July 1973, pp. 228 and 231. Also, it should be noted that the The New York Times, front page reporting of Roger's speech dealt almost entirely with his comments on human rights. See, The New York Times, 6 July 1973, pp. 1, 4.

74. Kavass, p. 229. Representatives from the United States and Soviet Union had signed another cultural agreement in Moscow only weeks before, on 20 June 1973. This accentuated the Soviet and American preference for dealing with these matters bilaterally. See, The New York Times, 20 June 1973, p. 18.

75. Vojin Dimitrijevic writes that the "unfortunate state of affairs during and after the Conference has sometimes been referred to as the ideologization of the human rights issue." Adam Rotfeld describes the "ideologization of the CSCE process." Neither study acknowledges that this difficulty was evident at least by the time of the preparatory discussions. See, Dimitrijevic, Vojin, "The Place of Helsinki on the Long Road to Human Rights," in Dominick, Mary Frances (ed.), Human Rights and the Helsinki Accord: A Five Year Road To Madrid, Transnational Legal Studies Program, Vanderbilt University School of Law (Nashville: William S. Hein & Co., Inc., 1981), p. 11. Rotfeld, Adam Daniel, "The CSCE Process and European Security," in Mottola, Kari (ed.),

Ten Years after Helsinki: The Making of the European Security Regime (London: Westview, 1986), p. 24. Also see, Chossudovsky, Evgeny, The Helsinki Final Act Viewed in the United Nations Perspective: Towards Strengthening the Continuity and Coherence of the Follow-up to the Conference on Security and Cooperation in Europe, Research Report No. 24, United Nations Institute for Training and Research (New York: Unitar, 1980). Fascell, Dante, "The Helsinki Accord: A Case Study," Annals of the American Academy, Vol. 442 (March 1979), pp. 69-76.

76. See, Molineau, Harold, "Negotiating Human Rights: The Helsinki Agreement," World Affairs, Vol. 141, no. 1 (1978), pp. 24-39.

77. Supra, note 59.

78. Quadripartite Agreement on Berlin (3 September 1971) in 66 American Journal of International Law 242 (1972); Federal Republic of Germany--German Democratic Republic: Agreements Implementing the Quadripartite Agreement (December 1971) in 11 International Legal Materials 5.

79. Joseph Nye argues that "pressure from the West Europeans pushed the Soviets into agreeing to a human rights clause in the 1975 Helsinki Agreement." Harold Russell writes that in order "to conclude [sic] CSCE with a document containing an innocuous principle on the 'inviolability of frontiers,' which the Soviets viewed as meeting their objectives, the Soviet bloc had [emphasis added] to accept pages of text dealing with cooperation in humanitarian fields." But Robin Edmonds is in agreement that the Soviet leaders could have reversed support for the CSCE after 1970. See, Nye, Joseph S., The Making of American's Soviet Policy (London: Yale University Press, 1984), p. 163. Russell, Harold S., "Follow-up at Madrid: Another Chance for the United States," in Dominick, Mary Frances (ed.), Human Rights and the Helsinki Accord: A Five Year Road to Madrid, Vanderbilt University School of Law, Transnational Legal Studies Program (Nashville: William S. Hein & Co., 1981), p. 116. Edmonds, Robin, Soviet Foreign Policy: The Brezhnev Years (Oxford: Oxford University Press, 1983), p. 92.

80. Maresca, p. 49.

81. For example, when a Soviet delegation travelled to Romania to commemorate the 30th anniversary of the liberation of that country from German occupation, the CSCE was discussed. Ceausescu wrote an article summarizing the

meeting in which he stated that Romania was very interested in the CSCE which "should work out coherent documents designed to affirm new [emphasis added] principles and relations on the continent." He also stressed the necessity of "creatively applying the general laws of socialism to the concrete realities of Romania." See, Pravda, 22 August 1974, pp. 4-5 in Current Digest of the Soviet Press, Vol. 26, no. 34 (18 September 1974), pp. 11-12.

82. Maresca convincingly argues that the human rights aspects of the CSCE damaged the Soviet effort by creating further ideological unity among the Western democracies which had common views on the rights of the individual. Maresca, p. 24.

83. Ibid, p. 48.

84. Ibid, pp. 48-54.

85. Kavass, Vol. 5, pp. 5 and 13.

86. Ibid, pp. 14 and 16.

87. Iurii Vladimirovich Dubinin was born in 1930. He was a member of the Ministry of Foreign Affairs from 1960 to 1963 and from 1968 to 1978. In 1963, he was appointed as First Secretary and Embassy Counsellor in the Soviet embassy in France, where he remained until 1968. He was the Soviet Ambassador to Spain from 1978 to 1985 and was appointed as Soviet Ambassador to the United States in 1986. See Lewytzky J. Borys (ed.) Who's Who in the Soviet Union (London: K.G. Saur, 1984), p. 81.

88. Maresca, pp. 127-8.

89. Ibid, p. 36.

90. Pravda, 19 April 1974, pp. 1-2 in Current Digest of the Soviet Press, Vol. 26, no. 16 (15 May 1974), pp. 7-9.

91. Major meetings in which the CSCE was discussed are as follows: Soviet Union--Romania in Pravda, 22 August 1974, pp. 4-5 in Current Digest of the Soviet Press, Vol. 26, no. 34 (18 September 1974), pp. 11-12; Soviet Union--Hungary in Pravda, 26 September 1974, p. 2 in Current Digest of the Soviet Press, Vol. 26, no. 39 (23 October 1974), p. 1; Soviet Union--German Democratic Republic in Pravda, 7 October 1974, pp. 1-3 in Current Digest of the Soviet Press, Vol. 26, no. 40 (30 October 1974), p. 1. Also note the statement

from an earlier meeting between the party leaders of the Soviet Union and Poland in Pravda, 20 December 1973, p. 1 in Current Digest of the Soviet Press, Vol. 25, no. 51 (16 January 1974), pp. 25-6.

92. Major meetings in which the CSCE was discussed are as follows: Soviet Union--France in Pravda, 8 December 1974, p. 1 in Current Digest of the Soviet Press, Vol. 26, no. 49 (1 January 1974), pp. 11-12; Soviet Union--Netherlands in Pravda, 23 April 1974, p. 5 in Current Digest of the Soviet Press, Vol. 26, no. 16 (15 May 1974), pp. 24-5; Soviet Union--Federal Republic of Germany in Pravda, 17 September 1974, pp. 1-2 in Current Digest of the Soviet Press, Vol. 26, no. 37 (9 October 1974), pp. 12-13 and Pravda, 31 October 1974, pp. 1-2 in Current Digest of the Soviet Press, Vol. 26, no. 44 (27 November 1974), pp. 12-13; Soviet Union--Iceland in Pravda, 19 April 1975, p. 5 in Current Digest of the Soviet Press, Vol. 27, no. 15 (7 May 1975), p. 17. For earlier statements see, Soviet Union--United Kingdom in Pravda, 6 December 1973, p. 4 in Current Digest of the Soviet Press, Vol. 25, no. 49 (2 January 1974), p. 10; Soviet Union--Canada in Pravda, 25 November 1973, p. 4 in Current Digest of the Soviet Press, Vol. 25, no. 47 (19 December 1973), pp. 19-20; Soviet Union--Denmark in Pravda, 26 October 1973, pp. 1,4 in Current Digest of the Soviet Press, Vol. 25, no. 43 (21 November 1973), p. 18.

93. Pravda, 14 March 1974, p. 4 in Current Digest of the Soviet Press, Vol. 26, no. 11 (10 April 1974), p. 17.

94. These visits are reported in Pravda, 4 September 1973, p. 1 in Current Digest of the Soviet Press, Vol. 25, no. 36 (3 October 1973), p. 11; Pravda, 14 December 1974, p. 2 in Current Digest of the Soviet Press, Vol. 26, no. 50 (8 January 1975), pp. 17-18; Pravda, 15 March 1975, p. 1 in Current Digest of the Soviet Press, Vol. 27, no. 11 (9 April 1975), p. 20. This is not to say that Soviet officials did not meet with other representatives from neutral countries. For a Soviet--Austrian communique see, Pravda, 1 June 1974, pp. 1,4 in Current Digest of the Soviet Press, Vol. 26, no. 22 (26 June 1974), pp. 18,27.

95. Pravda, 18 October 1974, p. 4 in Current Digest of the Soviet Press, Vol. 26, no. 42 (13 November 1974), pp. 22-3.

96. Kavass, Volume 5, pp. 23-37.

97. Ibid, pp. 32-3.

98. Ibid, p. 36.
98. Ibid, Volume 3, CSCE/I/A/3, 24 September 1973, p. 92.
99. Maresca, p. 92.
100. Kavass, Volume 5, CSCE/II/I/117, 19 March 1974, p. 66.
101. Ibid, pp. 72-3; Maresca, p. 28.
102. For earlier East European proposals see, Kavass, Volume 5, pp. 61 and 63.
103. Soviet emigration practices are discussed in Chapter V.
104. Kavass, Volume 5, p. 74.
105. Ibid, p. 75.
106. Izvestiia, 7 March 1973, p. 2 in Current Digest of the Soviet Press, Vol. 25, no. 10 (4 April 1973), p. 24.
107. "Epoch-Making Victory," International Affairs, Vol. 6 (June 1975), pp. 10-11. Nikolayev, Y., International Affairs, Vol. 2 (February 1976), p. 7.
108. George, Alexander L., "Political Crises" in Nye, Joseph S. (ed.) The Making of America's Soviet Policy (New Haven: Yale University Press, 1984), p. 154.
109. Maresca, p. 36.
110. Ferraris, p. 303.
111. Kavass, Volume 5, p. 100.
112. Ibid.
113. Ibid, p. 119.
114. Maresca, p. 108.
115. Ferraris, p. 134.

116. The East European delegations must have been aware of the numerous international meetings later that year where the CSCE would be discussed. These included: November 23-24--Superpower summit in Vladivostok; December 12-13--NATO Foreign Ministers Meeting; December 14-16--Giscard and Ford summit in Martinique. The Soviet objective may have been to create a positive atmosphere so that an early conclusion to the CSCE would be discussed at these meetings.

117. Kavass, Volume 5, p. 110.

118. Ibid, p. 111.

119. Maresca, pp. 147-50.

120. Kavass, Volume 5, p. 61. Also see, Pravda, 1 August 1975, p. 1 in Current Digest of the Soviet Press, Vol. 27, no. 31, p. 12; Soviet News (Press Department of the Soviet Embassy in London) 12 August 1975, p. 1.

121. Kavass, Volume 5, p. 132. Also, The Times, 2 August 1975, p. 1.

CHAPTER 3

THE SOVIET INTERPRETATION OF HUMAN RIGHTS
IN THE HELSINKI FINAL ACT

Voting on the wording of the final document of the CSCE was by consensus, even though the thirty-five nations often had conflicting interests. Hence, it was remarkable that the Final Act was completed at all. Moreover, participants and observers of the CSCE contended that the Conference would go much further than a stagnant reaffirmation of the political situation in Europe.¹ Rather, it was hoped that the CSCE had created a long-term "Helsinki process" that would succeed in defining the activities appropriate for detente, as well as in establishing an ongoing system to enhance security and cooperation in Europe.

In reality, the Final Act, the centerpiece of the CSCE, has failed to fulfill these expectations. The single greatest cause of the breakdown of the Helsinki process has been the total absence of any agreement between the East and West European delegations over the meaning of the humanitarian provisions of the Final Act. As presented in Chapter II, the representatives from Eastern and Western Europe possessed antithetical

viewpoints on the substance and exercise of human rights. These differences were revealed early on in the Helsinki Consultations and continued unabated throughout the CSCE. The period following the signing of the Final Act through the first two CSCE follow-up meetings (in Belgrade in 1977 and Madrid in 1979-83) has displayed the futility of either side attempting to convince the other of the accuracy of its interpretation of the humanitarian provisions of the Final Act. The most recent follow-up meeting of the CSCE (in Vienna in 1986-7) revealed that the Gorbachev leadership is equally inflexible in its formal definition of human rights in the Final Act while, at the same time, Gorbachev has used the Western preoccupation with alleged human rights violations in the Soviet Union to attain specific political objectives such as the release of prominent Soviet spies captured in the West. Chapter Six will present aspects of the most current Soviet position on human rights, especially as they relate to the Helsinki process.

The purpose of this chapter is to examine the Soviet interpretation of the humanitarian provisions of the Final Act in the period immediately following the CSCE. This task would be much more difficult had the Soviet position not reiterated earlier Soviet views on human rights. In the period leading up to the ascension of Gorbachev (March

1985), it is possible to ascertain four general objectives in the Soviet definition of the humanitarian provisions: to maintain the State as the primary source of rights and the Party as the sole body to distribute, monitor and revoke those rights; to preserve Soviet society as a "collective of the working people"² and to prevent individuals from disrupting the social unity of mature socialism by disagreeing with the goals and methods of the Party and State organs; to defend the Soviet Union from counter-ideological subversion by capitalist states in the name of human rights; and finally, to convince other nations that the rights enjoyed by Soviet citizens are far superior to rights in capitalist countries and that most rights, primarily in the social and economic category, are guaranteed in the Soviet Union, but impossible to implement in the capitalist countries.

Since the Final Act is not a treaty, it is also necessary to examine its legal status from the Soviet perspective, especially with reference to the humanitarian provisions. The legal force of the Final Act, or the lack thereof, is central to this study because it is essential to determine if the Soviet leaders felt and still feel legally bound even by their own interpretation of the document, let alone by that of the West European countries. If the Soviet leaders do not recognize a legal

responsibility to abide by the principles of the Final Act, then the extent of their political and moral obligations must be addressed. In order to consider the Soviet record in adhering to the human rights proclamations, a section of this chapter will present an overview of recent Soviet legal and theoretical commentary on the subject of human rights. It is well beyond the parameters of this study to delve into the early theoretical writings that discuss human rights such as the works of Marx and Lenin. The focus here is on contemporary Soviet writers since they helped to fuel the present controversy over human rights in the Final Act.

LEGAL STATUS OF THE HELSINKI FINAL ACT

Soviet spokespersons have offered mixed views on the legal status of the Final Act, but there has been virtually unanimous agreement that some sections of the document are more significant than others. The distinction between the legal and non-legal provisions allegedly stems from the fact that some portions of the Final Act were already pre-existing legal codes of conduct, while other sections were simply important for promoting security and cooperation. In making this discernment, Soviet authors ultimately divide the Final Act into

sections which are legally binding and sections which are purely recommendatory. Since the primary Soviet objective has been to confirm the territorial status quo in Europe, the principles which advance that end are binding from the Soviet perspective. Since the humanitarian provisions were not designed to confirm the post-war geographic arrangement of Europe, Soviet representatives often consider them moral and political obligations which are, from their perspective, a very minor part of the Helsinki process.

The first significant Soviet interpretation of the content of the Final Act, especially for the human rights category, was issued during a meeting on the results of the CSCE attended by members of the Politburo of the Central Committee of the Communist Party of the Soviet Union, the Presidium of the USSR Supreme Soviet and the USSR Council of Ministers. According to this statement, the Final Act includes principles for relations between states which "already have the force of law" and were outlined in earlier bilateral and multilateral agreements; the document "summed up the necessary political outcome of World War II . . . , and consolidated the principles necessary for peaceful coexistence between states."³ This interpretation was applied consistently to the Final Act through the first two follow-up meetings.⁴

There are ten principles of relations among states: sovereign equality and respect for the rights inherent in sovereignty; refraining from the threat or use of force; inviolability of frontiers; territorial integrity of States; peaceful settlement of disputes; non-intervention in internal affairs; respect for human rights and fundamental freedoms, including freedom of thought, conscience, religion or belief; equal rights and self-determination of peoples'; cooperation among States; and fulfillment in good faith of obligations under international law. According to the Soviet position, all of these principles predate the Final Act as legally binding codes of conduct, especially through the United Nations Charter and its accompanying agreements.⁵ Furthermore, a triad of the principles (respect for the rights inherent in sovereignty, inviolability of frontiers, territorial integrity of States) are vital, at least in Soviet eyes, for confirming the status quo in Europe.⁶

By emphasizing the legal nature of the principles, the Soviet leadership achieved yet another objective--to solidify a very narrow definition of peaceful coexistence. The doctrine of peaceful coexistence discounts the use of military force and encourages economic, technological and agricultural exchange on a broader scale, but does not typically include discussion of the rights of citizens in

various countries, or governmental violations of such rights.⁷ As was revealed early on in the CSCE, the principle of non-intervention in internal affairs, having legal force, could be used to discount all of Basket III's humanitarian provisions since, in the Soviet view, this section of the Final Act is not legally binding. To consolidate the legitimacy of this tactic, the Soviet delegation at the CSCE was able to incorporate the following statement into the preamble of Basket III:

this cooperation should take place in full respect for the principles guiding relations among participating States as set forth in the relevant document.

Because of this restrictive clause, all of Basket III could be tempered by the sweeping principle of non-intervention. The principles could also be used to argue that any activity which did not contribute directly to peace, as the Soviet leadership interpreted peaceful relations, would violate the legally binding section of the Final Act.⁸

Yet, there are serious problems with this approach to the legal status of the Final Act and some of these difficulties have been discussed by Soviet scholars themselves. First, the Final Act was signed as a single text and should be interpreted as a unified whole. To say that one section is legally binding while others are not

would mean that the CSCE culminated in a series of final acts rather than in a single document. This reasoning is inadequate because, according to many participants in the Conference, including the Soviet delegation, individual sections should be interpreted in relation to the totality of the Final Act.

Second, the participants of the CSCE stated their intention to create a final act and not a treaty. The concluding section on the follow-up procedure states:

The Government of the Republic of Finland is requested to transmit to the Secretary-General of the United Nations the text of this Final Act, which is not eligible for registration under Article 102 of the Charter of the United Nations, with a view to its circulation to all the members of the Organization as an official document of the United Nations.

Had the participants wanted a legally binding document, they certainly would have submitted the text to the United Nations for confirmation as a treaty and then for ratification in their own legislatures, if necessary. It is possible that the Soviet leadership was pessimistic about the likelihood that the US Senate would ratify a Helsinki Treaty. After all, a Senate debate over ratification would simply increase the possibility of peripheral issues spoiling the importance of the document. Soviet representatives had already had a taste of this problem in the debates over most-favored nation trading

status in 1974 and this concern was legitimized further in 1979 when the SALT II Treaty was scrapped in the Senate after the Soviet invasion of Afghanistan and rumours of a previously unknown Soviet brigade stationed in Cuba.

Even so, Soviet authors have demonstrated a remarkable degree of disagreement on the actual legal force of the Final Act. The discussants who have commented on this issue fall into two basic "camps." The first group, represented by G.V. Ignatenko and S.A. Malinin, stresses that the Final Act "offers a specific source of international law."⁹ Malinin's argument is that, while the Final Act is not a treaty, it has become a part of customary international law.¹⁰ An examination of the predominant Soviet view of custom in international law, though, does not support Malinin's contention.¹¹

A second collection of individuals representing a Soviet interpretation contend that the obligation acquired through the Final Act was less than a legal one. Representative of the contentions of this larger group were the comments of Viktor Soldatov, special correspondent for Sovetskaia Rossiia in Helsinki. During the final stage of the CSCE he addressed his comments to citizens in the West who were complaining that the final document was not significant because it did not have legal force. Soldatov stated:

These skeptics should be reminded of an important fact that all the States, participants in the security and co-operation conference, showing good will, have worked jointly on the final document and will sign it at the summit level. This will impart to it the nature of a solemn pledge.¹²

And in specific reference to the Declaration of Principles, Vadim Nekrasov has argued that this important portion of the Final Act has "the stature of a code of moral commandments for international conduct."¹³ The predominance of this latter view, that is, that the Final Act is essentially a political and moral document, signaled a change in earlier Soviet positions.

As early as 1972, the Soviet delegation to the CSCE indicated that it desired a legally binding agreement. In the early proposals for the CSCE, the Soviet representatives called for the creation of a permanent CSCE body that would continue to monitor the participants' progress in complying with the resultant document.¹⁴ This approach was used in the Anti-Ballistic Missile Treaty, a successful Soviet-American negotiation, which may have influenced the Soviet decision to use a committee in the CSCE. Apparently, this permanent consultative body would have had the legal authority to petition violators who had signed the document. But, as the humanitarian provisions gained momentum, the Soviet delegation favoured a non-

legally binding document and a biennial follow-up conference procedure.

Another alternative is to interpret the Final Act as having both political and legal norms, but this eventually becomes a semantic exercise in which the distinction between legal and political obligations will depend on the advantages to the individual state concerned. A nation facing criticism for lack of adherence is likely to accentuate the political nature of both the provision in question and the accusation made. For the distinction between political and legal provisions in the Final Act to attain credibility, it would be necessary to base the categorization on the pre-existing status of the clauses concerned. Most of the principles in Basket I are already part of the United Nations' Charter and other legal documents. The fact that the same principles appear within the text of the Final Act does not, in and of itself, secure legality. Ostensibly, a citation of their presence in the Charter of the United Nations would ensure legal authenticity, but the worth of the provisions would still be jeopardized by conflicting interpretations of their meaning.

Regardless of the debate over the legal disposition of the Final Act, its greatest value is its tendency to generate discussion about provisions in pre-existing

documents. In the words of one non-Soviet author, "the Final Act may illuminate the understandings of its signatories regarding their obligations under general or specific international law [and] may be used to interpret an instrument that is binding."¹⁵ Disputes arising from alleged violations of the UN Charter could be discussed during the follow-up conferences to the CSCE, especially when those specific provisions are included within the Final Act. The content of the Final Act is so closely linked with that of the Charter that such discussions would be entirely appropriate. Also, the Final Act was signed by the highest governmental representatives of the participating nations who realized the extraordinary political significance and attendant publicity of the document. In August 1975, the Helsinki Final Act was potentially as well known in Europe, the United States and Canada as was the UN Charter, especially among observers of international affairs. This adds even more support to the argument of Mary Dominick and Alexandre Kiss that:

the actual costs and benefits of violating a formal international agreement signed by nations' highest representatives are arguably the same whether it is deemed implicitly binding or non-binding by individual signatories.¹⁶

In a political context, the leaders of the East and West European countries cannot be certain that their citizens will make the distinction between a moral/political

undertaking and a venture which resulted in an indisputable legal obligation. A case in point has been the SALT II agreement which was not ratified in the US Senate and did not attain legal force. Nevertheless, both the United States and Soviet Union were influenced by domestic and international pressures to adhere to the provisions of the treaty.

At least one Soviet commentator agrees with this reasoning by stating that:

[some] signators declare that the Helsinki documents lack 'binding legal force.' But of course, the point at issue is not one of legal casuistry. The leaders of 35 states, including all the principal capitalist powers, put their signatures to the Final Act, thus solemnly undertaking to fulfill its provisions. The question now is how these obligations will be fulfilled in practice.¹⁷

Since the signing of the Final Act, Soviet spokespersons have frequently reiterated this interpretation.¹⁸

Thus, the predominant Soviet interpretation, that the Final Act establishes political and moral, rather than legal, obligations for the thirty-five signatories appears well-founded. Obviously, the participants in the CSCE decided that they did not want to create a treaty or an agreement, but rather, they favoured a final act (or accord) which expressed a pledge without legal liability. It is apparent that some sections, such as the "Declaration of Principles Guiding Relations Between Partici-

pating States," already have the force of law in earlier treaties and agreements.¹⁹ But Soviet emphasis on the exclusively legal nature of the principles is unjustified for the Final Act is a single document with interrelated sections. Even recognition of this fact, though, could not curtail the success of the Soviet leaders in achieving their primary objective in CSCE-solidifying the territorial status quo in Europe. Of course, Soviet political-legal specialists could point to a number of bilateral agreements, especially the aforementioned 1970 treaty with the Federal Republic of Germany, which include a pledge to respect territorial integrity, as a confirmation of the status quo regardless of the Final Act. Besides, an attempt to "liberate" the Baltic states (Latvia, Lithuania and Estonia), or to reunite Germany, even if the persons in these countries felt that they were imprisoned, would necessitate the use of force. Western leaders do not consider this a sensible option and, from a legal standpoint, the UN Charter clearly rejects such action. An even more controversial question is whether or not Western radio broadcasts into the East European countries violate the territorial integrity of those states. This issue will be discussed later in this chapter in reference to Soviet allegations of "psychological warfare."

The legal status of the humanitarian provisions is one of the most significant aspects of this study. A majority of the Final Act's human rights guarantees are already a part of recognized international law through the UN Charter and accompanying agreements. Soviet spokespersons appear to agree with this fact. Legal theorist Vladimir Kartashkin states quite plainly:

The Covenant on Civil and Political Rights and the Covenant on Economic, Social and Cultural Rights both make it legally incumbent upon the parties to take immediate steps to implement their provisions....The UN Charter imposes on all countries the [legal] duty of promoting fundamental rights and freedoms....This commitment was reaffirmed by the states that took part in the Helsinki Conference on Security and Cooperation in Europe.²⁰

Then why has there been such a controversy over these provisions? The following sections illustrate that the Soviet and American interpretations of the substance and priority of human rights have diverged for over four decades. The Final Act does not resolve this dilemma and it does not outwardly support either the Soviet or the American position.

THE HUMAN RIGHTS PROVISIONS IN THE FINAL ACT

Perhaps the single most important question for the issue of human rights in the CSCE is exactly where the

strongest statement is made on this topic within the Final Act. Two sections of the document mention humanitarian concerns: Principle Seven of Basket I and all of Basket III.²¹ Of the two, Principle Seven is the most significant for, as mentioned above, Soviet analysts consider the principles legally binding. But, in a seemingly inconsistent shift of emphasis, Soviet writers often stress the special legal significance of the other nine principles while either conveniently abstaining from a thorough discussion of Principle Seven, or by contending that the other principles restrict the scope of Principle Seven. For example, in one of the few Soviet monographs devoted in full to the Final Act, written by C. Vladimirov and L. Teplov entitled, Kursom Khel'sinkskikh Dogovorennosti [A Course on the Helsinki Agreement], Principle Seven or Basket III is rarely mentioned in over 200 pages of analysis, effectively downplaying these particular provisions.²²

Vladimirov and Teplov recognize that the Final Act consists of three baskets, but they apply the labels, "political, economic and humanitarian" to these respective sections.²³ This strict distinction is disputable--after all, Soviet commentators themselves have argued that the overriding human "right to life" is represented in Basket I--yet this division does return to earlier Soviet

attempts to subdivide the accord into parts that they consider more important than others.²⁴ The "political" basket is most important in this approach because it houses the accepted "code or norms of peaceful coexistence" and is the political nucleus (politicheskoe iadro) of the CSCE.²⁵ The authors argue that it was the greatest desire of the participating states to establish this code because the full implementation of the ten principles would improve the political and military climate in Europe.²⁶ Therefore, the authors summarize the achievements of the Conference as follows:

The Conference on Security and Cooperation in Europe has geared itself toward the true essence of the matter in this highly significant stage of the process of normalizing relations between the states of the Warsaw Pact and NATO, as well as all other European nations, and the prospects for improving these relations, on the basis of the principles of peaceful coexistence, have been strengthened.²⁷

In other words, in order to "normalize" relations in Europe, the participants in the CSCE were concerned primarily with creating a code of norms (kodeks norm).

The broad recognition of this code also signaled the beginning of a process (protsess) to put the principles into practice. Soviet officials viewed the CSCE as the start of a process, but they did use the word, zakliuchitel'nyi (conclusive) to assert that the formerly unresolved questions over territory were finally settled.

Soviet spokespersons were careful, however, not to use the word reshitel'nyi (decisive) to describe the Final Act for this may have implied that there would not be an ongoing process to improve relations, especially in the area of trade. Thus, the document is, in the linguistic sense, as much a beginning as an end from the Soviet perspective.

The Helsinki Final Act then, has initiated a process which could fail as easily as it could succeed. The greater danger is that the positive political and military climate in Europe could be spoiled. Soviet commentators have asserted that it is, in fact, the ultimate aim of the United States to spoil the process for normalizing relations in Europe.²⁸ The United States is blatantly targeted for criticism while West European governments often escape such severe ridicule. In this manner, the United States is presented as an imposter on the European political scene and Vladimirov and Teplov imply that the role of the United States in European affairs should be limited.

On the subject of human rights violations, the United States is again blamed. Vladimirov and Teplov do reproduce Principle Seven in their "code of norms" and they acknowledge the role of human rights in improving relations in Europe. But the process is spoiled once again by the United States. The problem in this area results

from alleged American imperialism or neo-colonialism in Vietnam, Laos, Kampuchea and the attempts of the United States to crush liberation movements in Ethiopia, Angola, Mozambique, Afghanistan, Nicaragua, Zimbabwe and Guinea-Bissau.²⁹ These are considered the genuine violations of the norms presented in the first basket and the discussion of human rights in this text, as well as others, is dominated by these claims.³⁰ For American and West European observers to understand the Soviet view of Principle Seven, it is necessary to recognize that the Soviet leadership most often places issues of human rights into the context of superpower regional competition. The notion of the rights of the individual is quite secondary, but the determination of the nations of the Warsaw Pact to limit American imperialism will, supposedly, ensure that the rights of all persons are protected.³¹

Within the context of the CSCE, Vladimirov and Teplov are justified in asserting the link between international security and cooperation on the one hand with human rights. In fact, Principle Seven states:

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States.

But the participants in the CSCE agreed to advocate human rights as a necessary end in and of itself. Principle Seven includes the most significant statement on the protection of human rights due to the following clauses:

The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion....In the field of human rights and fundamental freedoms, the participating States will act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights. They will fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound.

According to Kartashkin, "a number of agreements and decisions have been adopted within the United Nations which underline the legal character of the obligation of states to observe fundamental rights and freedoms of persons (The Universal Declaration of Human Rights of 1948 . . . The Covenants on Human Rights of 1966, Declaration of Principles of International Law Concerning Friendly Relations and Cooperation Between States of 1970)."³² He is certain that the Final Act confirms the legal force of these universally recognized principles of contemporary international law.

The UN Charter, Article 1(3) states that one of the purposes of the United Nations is "to achieve internation-

al cooperation in solving international problems of an economic, social, cultural, or humanitarian character, and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language or religion...."³³ Soviet legal theorists recognize treaties as the primary source of international law and the Charter definitely falls into this category.³⁴ Since the Final Act reaffirms principles that were already legally binding, its most important role may be in reemphasizing the previous obligations of states under international law. But if the strength of the Final Act actually rests in the United Nations, then the Helsinki process must be perceived as very weak because any disputes over human rights could be resolved in the United Nations rather than in the follow-up conferences of the CSCE. In fact, since the CSCE reconvenes every two years at the most, although occasional meetings relating to specific topics occur more frequently, the United Nations offers the only permanent facility for debating alleged violations of human rights. Thus, Principle Seven is an enigma because it reiterates the Charter to gain legal punch, but the fact that it cannot stand on its own merit openly illustrates its weakness.

Another document from the United Nations which is mentioned in Principle Seven is the 1948 Universal

Declaration of Human Rights. This is the most extensive document on the rights of individuals, but its legal force is questionable due to the fact that the Universal Declaration is a resolution of the General Assembly of the United Nations. Western legal theorists generally agree that the Universal Declaration is an important recommendation which the signatories have voluntarily agreed to implement in their respective countries, but it does not have legal status.³⁵ The Universal Declaration may have become a part of customary international law, but it could be argued that the Final Act also qualifies for this categorization.³⁶

Principle Seven also mentions fulfillment by states of their obligations under the International Covenants "by which they may be bound." There are two covenants: The International Covenant on Civil and Political Rights (1966) and The International Covenant on Economic, Social and Cultural Rights (1966). Representatives of the Soviet Union signed both covenants on 18 March 1968, but they were not ratified until 16 October 1973 when the Soviet leadership was attempting to deflect criticism of the status of human rights in the Soviet Union and to downplay the need to consider human rights issues in the CSCE. And Soviet spokespersons have stressed that the covenants do allow the signatory governments to restrict emigration and

the flow of ideas for national security, protection of public order, health and morals.³⁷ As for the United States, both covenants were signed on October 5, 1977 as part of President Carter's human rights foreign policy, but to date they have not been ratified. This has graced the Soviet leadership with a propaganda victory as it called into question the sincerity of American attempts to improve the general well-being of individuals (as this was defined by the American leadership). According to Kuritsyn:

The refusal of the USA to sign the international covenants on human rights is not surprising: after all, these covenants speak of the human rights which do not exist in the USA...the United States has not only renounced international cooperation 'in promoting and encouraging respect for human rights and for fundamental freedoms' as envisaged by the UN Charter, but also is unwilling to condemn flagrant and mass violations of human rights as a result of aggression, colonialism, racism, genocide and apartheid.³⁸

Of course, the implication is that the reason that the representatives of United States will not condemn these violations of human rights is because they actually incorporate these tactics into overall foreign policy. Hence, the explanation provided by Vladimirov and Teplov, that human rights in the Final Act have not been implemented in the international sphere because of American disregard for the "code of norms," is reinforced.

Kartashkin actually goes on the offensive and argues that, even though the United States has not ratified the covenants, this "does not mean that they are not bound by any obligation in this sphere" because of pre-existing obligations under the UN Charter.³⁹ As presented in Chapter Five, President Carter recognized that the lack of an American signature on either covenant was inexcusable.

Soviet leaders have signed and ratified the two covenants which have now entered into force and violations of them breach international law. An interesting consideration for the Final Act, and one often overlooked, is that no nation could have been bound by obligations in the covenants in 1975 when the Final Act was completed. This is because the covenants did not enter into force until several months following the last meeting of the CSCE in Helsinki.⁴⁰ And there is unanimous agreement amongst Soviet and American legal theorists that international treaties, agreements, covenants and other documents are to be implemented through adjustments in domestic legislation, but there is no enforcement procedure to insure that this actually occurs.⁴¹ This reality has the propensity to reduce even treaties to recommendatory status.

While there has been much commentary on how Principle Seven should or should not be implemented in the signatory

nations, this discussion has always reiterated the notion that the Final Act intermeshed a number of documents on human rights into a single, uniform treatise. This has been regarded as a positive development. But, in the case of the covenants, the Final Act has been a divisive document. This is due to the fact that, even though Principle Seven mentions both covenants, the principle itself is lodged within a basket that presents a code of political norms from the Soviet perspective. The most important statements of rights to Soviet commentators are in Baskets II and III because they outline basically economic, social and cultural rights. As will become evident in the following section, Soviet writers emphasize Soviet achievements in these latter areas which, it is claimed, can never be matched by the capitalist countries. In simple terms, these spokespersons are able to use two baskets to press their assertion of compliance. At the same time, Principle Seven can be treated as merely one of ten important principles in the first basket for enhancing security and cooperation in Europe.

In fact, Principle Seven does merge human rights and international security. It states:

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly

relations and cooperation among themselves as among all States.

Soviet spokespersons frequently refer to the link between international tension and the need to improve human rights.⁴² This merger already exists in the preamble to the Charter of the United Nations, but the fundamental problem of mediating between different interpretations of the content of human rights remains, as will be discussed below.

The other major section of the Final Act that deals with issues of human rights is Basket III, which outlines four general areas of humanitarian cooperation: human contacts (reunification of families, marriage between citizens of different states, improved conditions for travel and tourism, and meetings between people for mutual understanding and for sport); information (wider distribution of printed, filmed and broadcast information and better working conditions for journalists); cooperation and exchanges in the field of culture; and cooperation and exchanges in the field of education. Even though these provisions are more specific than those in Principle Seven, they involve broad application over an extended period of time. For this reason, it is difficult to assess compliance. In any case, there is little apparent theoretical disagreement over the benefits of increasing

cooperation in these categories. Soviet writers continually emphasize the necessity of broadening exchanges of this type.⁴³ The only questions raised are how best to go about broadening the exchange, especially when the Soviet and East European governments consider only a narrow range of exchanges as appropriate (as illustrated in Chapter Four with the unofficial Helsinki Monitoring Groups).

The overriding objective in Basket III was to secure recognition that the implementation of Basket III was left entirely to the relevant governmental organizations. Therefore, the Soviet delegation insisted on the following phrase in the preamble to Basket III:

This cooperation should take place in full respect for the principles guiding relations among participation States as set forth in the relevant document....

Subsequently, Soviet writings have stipulated that "such cooperation must proceed in strict observance of the principles of mutual relations . . . principles of non-intervention in internal affairs, of sovereign equality, and for respect of the laws and regulations existing in individual countries."⁴⁴ Thus, all the activities outlined in Basket III are strictly controlled by the CPSU and the relevant Soviet governmental bodies. During the CSCE, the Western nations argued for a minimum of state

interference in such exchanges. The ultimate result of this dispute is that the non-communist signatory nations are totally powerless (aside from political or publicity pressure tactics) to effect changes in Soviet policy in this category.

The following sections examine the Soviet interpretation of human rights and why the Soviet leadership believes that Soviet citizens already enjoy more rights than the citizens of western democracies. If the Soviet leadership could substantiate this claim, the human rights debate in the CSCE forum could be dismissed as entirely artificial.

FOUNDATIONS OF THE SOVIET HUMAN RIGHTS DOCTRINE

An examination of the theoretical origins of the Soviet interpretation of human rights, as well as an analysis of human rights represented in the 1977 Soviet Constitution, will help to illustrate the complications inherent in any attempt to apply the Final Act on a universal basis. American and Soviet interpretations differ in the substance and priority of human rights. Because of these antithetical perceptions, which existed long before the completion of the Final Act, the prospect of accommodation between the superpowers on the content of

the Final Act is negligible. While many Western legal theorists contend that the rights presented in the Final Act are recognized as universal, their analysis has, in many cases, proven quite the opposite. Soviet leaders do not recognize the Western democratic interpretations of human rights and they steadfastly reject claims that the lives of citizens in the Western democracies have improved substantially. With the insuperable ideological division between the superpowers still intact, American and West European officials will find a heightened awareness of differences in the Soviet view of human rights more beneficial for negotiations than a confrontational approach that presupposes a world-wide definition of human rights based on the perceptions of their respective governments.

Theoretical Foundations of the Soviet Human Rights

Doctrine

The Soviet Union, in the words of its most prolific writers, on ideology, has developed into a more democratic nation than has ever existed. This new state, a "state of the whole people,"⁴⁵ is novel not only because it allows for the fullest and freest development of the individual, but also due to the alleged fact that its citizens are

enthusiastically united in the common goal of building communism. These dual privileges of individual and collective freedom form the linchpin of the Soviet argument on human rights. The present Soviet "state of the whole people" represents the blending of individual and collective rights and is the result of the unique, but inevitable historical development of the country on a path to communism.

For the purposes of this study, it is sufficient to begin with the period following the consolidation of Bolshevik power when the nation, according to official ideology, became a dictatorship of the proletariat. In the immediate years following the October revolution, the new nation allegedly entered a period of transition "when all aspects of society were in a state of flux, [when] new socialist trends combined and clashed with the relics of the old exploitative society."⁴⁶ In this environment:

resistance by the dispossessed capitalists demanded that the workers' and peasants' state take repressive steps against the activity of the exploiting classes within the country. Without action of this kind it would be impossible to consolidate working people's power.⁴⁷

While Soviet writers refer to this as a period of growth, consolidation and implementation of socialist principles, more importantly, it was an early example of the difficulty in balancing the rights and freedoms of individuals

with the broader egalitarian social and economic goals of representatives of the working class.

But Soviet historians, who have been forthright about the fact that the foundations of the Soviet system were built by one major segment of society--the working class (represented by the Party)--have also argued that what may have appeared as a period of sacrifice for some individual freedoms was necessary for achievement of a greater goal. This more important objective was, in fact, broader equality in Soviet society. One Soviet theorist explains that:

after the foundation of socialism had been laid, the workers were faced with the task of building developed socialism. The fulfillment of these complex tasks was connected with a whole historical stage in the life of society, during which the functions of the proletarian dictatorship were gradually completed and the state of proletarian dictatorship developed into the state of the whole people....At this stage, when socialism is developing on its own basis, the creative forces of the new system and the advantages of the socialist way of life become more fully apparent and the working people gain greater enjoyment of the fruits of their great revolutionary gains.⁴⁸

According to contemporary Soviet theorists, the current socialist "way of life" (obraz zhizni) is an improvement over the living conditions under tsarism, but the perception that full communism has not yet been attained is quite clear. The level of maturity that has been reached is "developed socialism" which guarantees the

rights of Soviet citizens well beyond the pledges made in the Helsinki Final Act. According to I. Bestuzhev-Lada, the principle characteristics of developed socialism include:

collectivism, democratism, true humanism in all societal relationships, the development of a sense of human dignity, social duty, and comradely mutual assistance, socialist internationalism and patriotism, a new attitude of people toward work and of society toward the working person, complete equality of women and men, concern of the entire people for children, moral and political unity, social optimism, and so forth. In these and many other respects, the socialist way of life is opposite to the capitalist way of life and the social problems associated with the socialist way of life differ fundamentally from social problems under conditions of the capitalist system.⁴⁹

He continues:

Under capitalism there is a fundamentally negative stimulus to work: if your pace drops and your output capacity declines, you are out on the street! Perhaps the fired worker will find another job. But in any case he is like a leper. To avoid this kind of socioeconomic reprisal, the worker keeps going for years under unbelievable tension, like an athlete at the finish line. Just so he can keep up, just to avoid being dismissed! The human mind has conceived nothing more inhumane than this stimulus....Socialism has made a clean break with negative stimuli as a means of raising labor productivity. The fear of reprisal has disappeared and this is among the greatest social achievements of the new social order.⁵⁰

Since Soviet writers frequently reiterate these basic differences between the socialist and capitalist ways of life, there is little room for compromise or thorough

discussion.⁵¹ The fundamental problem with capitalism is its mode of production. Soviet authors often refer to Marx's, The German Ideology which states that:

The way in which men produce their means of subsistence depends first of all on the nature of the actual means of subsistence they find in existence and have to reproduce. This mode of production must not be considered simply as being the reproduction of the physical existence of the individuals. Rather it is a definite form of activity of these individuals, a definite form of expressing their life, a definite mode of life on their part. As individuals express their life, so they are. What they are, therefore, coincides with their production, both with what they produce and with how they produce. The nature of individuals thus depends on the material conditions determining their production.⁵²

In other words, because the main principle of activity in capitalist society is, from the Soviet vantage, the pursuit of profit, the social, political and economic well-being of individuals in capitalist society cannot improve substantially. Minor improvements in the social system of Western democracies are possible because such progress is particularly comprehensible in the age of the scientific and technological revolution but this admission in no way retracts from the claim that capitalist society is grossly unequal. And since broader cooperation and exchange in the areas of science and technology will improve the quality of life for all citizens, Soviet leaders could argue that Basket II of the Final Act is an

important section for human rights and the refusal of Western leaders to expand such trade would be tantamount to violating the rights of citizens.

Soviet commentators admit that some "negative phenomena" still exist in developed socialism, but these remaining pockets of greed and immorality are leftover vestiges of pre-revolutionary capitalist society. For the most part, these evils have been overcome because:

The most characteristic feature of the way of life in the USSR and in other socialist countries is, indisputably, society's concern for the individual, for his well-being and the responding concern of the individual for society, the individual's feeling of participation in the affairs of society, a feeling of personal responsibility for the course of social development.⁵³

But since a deeper probe into the socialist way of life is necessary here, it is best to consider three recurrent controversies in the Soviet-American debate over human rights: state-granted versus individual rights; collective versus individual rights; and economic versus political rights.

Contemporary Soviet human rights theory defends the role of the state in granting even more rights to Soviet citizens. This, however, appears in marked contrast to Lenin's argument that true individual freedom was impossible until the state "ceased to exist."⁵⁴ Yet, in the 1977 Soviet constitution, the rights of persons

clearly derive from the state. The preamble to the 1977 constitution refers to the "socialist all-people's state" which combines the nongovernmental and governmental aspects of Soviet society into a single socialist entity.⁵⁵ In other words, the state is an integral part in the life of the Soviet citizen. Allegedly, rights are assured because, with the advancement to mature socialism, exploitation of man by man has been eliminated, thus guaranteeing socio-economic freedom.⁵⁶ Rights in the Constitution, as granted in Chapter 7, are prefaced by the phrase, "Citizens of the U.S.S.R. shall have the right..." but exercise of the subsequent rights must be "in conformity with the aims of communist construction."⁵⁷ Since the Soviet Union is not yet a communist society, it is implied that even more "freedoms" are forthcoming.

The Soviet Constitution (Chapter 1, article 6) reiterates the "guiding and directing force" of the Communist Party which "shall determine the general perspective of the development of society" toward communism. Thus, the Party plays the central role in granting constitutional rights to citizens even though the Party is also the sole defender of these same rights.⁵⁸ In this sense, the legislative and judicial functions in the Soviet system reside in the same body, creating the ultimate paradox--a citizen seeking retribution for an

alleged violation of human rights must appeal to the Party, even though the actions of Party members may have caused the infringement. As will be seen in Chapter Six, the current Soviet leaders are beginning to discuss openly the potential for abuse in this situation, and reform of the legal system is now on the political agenda.

Instances of manipulation are most often blamed on individual greed or corruption rather than on systemic problems. Furthermore, the decisions of the Party in human rights cases should actually display how the Constitution is being applied, but these decisions are rarely published in detail. In this sense, the Party has created a second constitution which is unwritten and inaccessible to most citizens. In 1979 though, an article did appear in Sovetskoe gosudarstvo i pravo which claimed that citizens required easier access to the court system when their rights were neglected at the workplace or violated by the actions of a governmental agency. It was argued that there should be procedural limits to court jurisdiction and that citizens could not vent complaints about general decisions or resolutions by state or administrative agencies.⁵⁹ In light of the great drive by Gorbachev to make officials more accountable for their actions, this article in the prominent Soviet legal

journal was an important catalyst of subsequent discussions.

In contrast to the Soviet Constitution freedoms in the American Constitution are based on what are perceived as natural rights. In other words, American rights theory promotes the belief that individual rights exist irrespective of political systems and claims that the encroachment of governments upon the individual rights of persons, should be limited. Thus, the Bill of Rights of the United States Constitution states that "Congress shall make no law...abridging the freedom" of citizens. The American constitution is state-restrictive in its approach to human rights while the Soviet constitution accentuates the role of the state in granting and protecting human rights.⁶⁰

One of the best examples of these antithetical viewpoints in action is the issue of emigration. The Helsinki Final Act does not specifically mention emigration, but encourages the easing of prerequisites for travel, especially for reunification of families. The problem centres around denaturalization because "the fact remains that emigration from the U.S.S.R. today is, in the main, contingent on prior denaturalization."⁶¹ This means that Soviet citizens cannot divest themselves of citizenship because only the state administrative apparatus has this

power. Conversely, Americans may renounce their citizenship at any time, and the government may not strip them of their citizenship without due process of law, as well as the attendant publicity from an independent (non-governmental) media. This is most significant for the Final Act because, without a more lenient attitude on state control of denaturalization, the Soviet leadership can effectively undermine much of Basket III.⁶²

Another prominent theoretical foundation for the Soviet doctrine of human rights, and a cause of further disagreement with Western legal theorists, is the collective nature of human rights. A citizen's rights extend only so far as they comply with the "rules of socialist community life" and all rights are prefaced by the primary duty of all citizens to "safeguard the interests of the Soviet state and to further the strengthening of its might and authority."⁶³ Again, the predominant notion is that the Soviet state dispenses rights to citizens, but only after the interests of governmental bodies have been protected. But Soviet commentators have become increasingly sensitive to the accusation that the rights of the individual are subordinate. In defense of an admitted problem of the socialist way of life, Georgi Shakhnazarov states that:

The untenability of bourgeois assertions that socialism spells the suppression of the individual by the collective with all the ensuing tragic consequences for civilization, is obvious. Socialist practice, free of distortions, has proved that the collectivist environment, more than any other, promotes the development of the personality, the flowering of individual talents. Under socialism, collectivity...acquires a deep humanistic meaning the contrary of...the mechanical joining of socially disparate individuals characteristic of the private-property system.⁶⁴

In a thorough discussion of this problem, Shakhnazarov admits that there is no "universal formula" to secure a balance of rights. He continues:

The gain of socialism, one of its most valuable features--a thoughtful, tactful attitude to people, the well-meaning influence of the collective on the individual without in any way interfering in his personal affairs--must undoubtedly be preserved. Otherwise, relapses of such phenomena as anarchism are inevitable, at the bottom of which lies bourgeois individualism, indifference to those around you, disregard of social demands and norms. Hence, here, too, it is a matter of evolving an optimal relationship between the personal and the social which would meet the interests of the all round development of the individual and the progress of the whole of society.⁶⁵

The specific political aspect of this problem, according to Shakhnazarov, has to do with the balance between public discipline and personal freedom. His answer as to how to create harmony between one's personal interests and the interest of society is to raise the level of consciousness of citizens who would subsequently exercise self-discipline. But most importantly of all, the level of

consciousness can only be increased by further education about the communist ideal. Shakhnazarov recognizes this and admits the fact that the need for further education necessitates more state institutional involvement, not less. It appears that state organizations and, most of all, the CPSU, will have to play a larger role in the individual lives of citizens before the level of consciousness can be raised to the point where "society will no longer have to enforce certain rules and regulations."⁶⁷ But he is confident that anti-social behavior will be reduced to the point where state-legal control can be curtailed accordingly. Delays in this development may occur and external conditions such as imperialist aggression, cold war and international tension will simply prolong the transition stage. Thus, Shakhnazarov has constructed an argument in which the capitalist nations, to be truly humanitarian, should pursue a peaceful foreign policy (as defined by the Soviet Union) which would allow for the full socialist development of the Soviet Union. The rights and privileges of citizens would then be much broader under communism and certainly greater than in any capitalist society.⁶⁸

This is the perspective applied to dissidents in Soviet society who are referred to as inakomysliashchie, or "differently minded." In Soviet society, being charac-

terized as inakomysliashchie is tantamount to treason since such minority beliefs threaten to hinder the transition from mature socialism to communism. The views of dissidents will be discussed in Chapter 5, but it would be useful here to note that only seven months after the completion of the Final Act, an article appeared in Pravda which discussed dissidence within the context outlined above.⁶⁹ In the article, written under the pseudonym, I. Aleksandrov, the issue was presented as follows:

The true visage of the people whom the West calls "dissenters" is indicated very clearly by the fact that, after going abroad, they enter the service of anti-Soviet centers controlled by the imperialist secret services....It is also characteristic that all the dissident's so-called "ideas" are direct borrowings from bourgeois anticommunist and anti-Soviet propaganda....This is a convincing answer to all those who try hypocritically to accuse our state of failing to fulfill the provisions of the third section of the Final Act of the Conference on Security and cooperation in Europe.⁷⁰

This is not, in fact, a convincing answer to criticism from Western human rights theorists. For example, Arpad Kadarkay disagrees emphatically with Soviet assertions.

He writes:

Soviet dissidents, with the possible exception of Sakharov, fail to realize that respect of human rights presupposes the legal value of the individual that is non-existent in Russian political thought. Hence the pathos of distance between the Russian "spirit" and Western "legalism" upon which Russian moralists, from Tolstoy to Solzhenitsyn, insist upon. From the viewpoint of Western political theory, which

predicates political society on the civic-legal relationship between individual and the government, Soviet society is lawless.⁷¹

These points of view are so disparate that a compromise would require admission from Soviet theorists that there was a fundamental flaw in the socialist system--that is, a basic disregard for the rights of the individual. While Soviet authors staunchly defend the expanding rights of the individual in Soviet society, Western democratic theorists have not yet proven that Soviet socialism has actually curtailed individual freedom, since the latter years of tsarist rule. Soviet commentators are quite certain that all rights and privileges are continually expanding. The debate over individual and collective rights is then, only one aspect of the greater controversy between the two antithetical socio-political systems.

The final category of Soviet human rights theory is the primacy of economic rights. As discussed above, in the Soviet view, the mode of production is fundamental to all aspects of human existence. Among contemporary Soviet theorists, Samuel Zivis has stated that:

The truth is that we consider the firm guarantees of socio-economic rights made by socialism as an absolute necessary condition for the effective exercise of civil and political rights.⁷²

Soviet citizens are guaranteed economic and social rights, such as the right to work, shelter and health care,

through "socialist Democracy" (Chapter 7 of the Soviet constitution). In fact, Soviet legal theorists maintain that the broader international concern for human rights is actually due to the realization of these rights in socialist democracy and the lack of respect for human rights in the capitalist countries.⁷³ But Western legal theorists claim that economic rights cannot be secured before political rights such as freedom of speech, assembly and press. One Western legal theorist convincingly argues that the rights granted to Soviet citizens are not rights at all. In reference to the Soviet constitution, Kadarkay writes:

article 40 states, 'Citizens of the USSR have the right to work, [and] on first impression, appears to enlarge the concept of human rights. In practice, it involves a 'direction' of labor....The right to work, not surprisingly, precludes the 'right' to strike. By Soviet logic, the workers cannot strike against their own interests as owners of national assets. The intra-bloc implications of this logic were dramatically demonstrated by the Polish trade union movement, Solidarity.⁷⁴

Yet, it is readily apparent that the emphasis on political rights in the United States Constitution has led to the total absence of any of the economic rights presented in the Soviet Constitution. And since the United States has not ratified the International Covenant on Economic, Social and Cultural Rights, it is open to the charge that

the American leadership recognizes that the United States cannot fulfill the pledges that would be undertaken.

Principle Seven of the Final Act combines political and economic rights and presents them as mutually beneficial. The participating states agreed to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development." This clearly demonstrates that all of the rights in the Charter of the United Nations, the International Covenants and the Universal Declaration of Human Rights are of equal value and should be applied to all citizens.⁷⁵

Unfortunately, the superpowers disagree on the content of these provisions. Further international debate and criticism could facilitate improvements in the human rights category but, as will be seen in the following section, the Soviet leadership has not accepted the jurisdiction of the international community to evaluate Soviet adherence to human rights guarantees.

The 1977 Soviet Constitution

The new Soviet Constitution, or Fundamental law, which was adopted on 7 October 1977, has been presented by Soviet commentators as a showpiece of human rights.⁷⁶ In fact, one Soviet assertion is that the new Constitution goes much further in implementing the provisions of the Final Act than is possible in Western democracies.⁷⁷ Again, this allegation is based upon a definition of human rights which representatives of Western democracies continually repudiate. In this case, the objective is not to examine the 1977 Constitution in its entirety, and the controversy surrounding it, but to analyze a number of aspects which relate to the human rights provisions of the Helsinki Final Act.

First of all, the 1977 Constitution was fifteen years overdue. During the Twenty-first Party Congress of January 1959, First Secretary Khrushchev called for amendments and additions to the 1936 Soviet Constitution which would reflect the new stage in the building of Communist society in the Soviet Union. Also, Khrushchev's initiative was one aspect of a broader destalinization campaign in which he distanced himself from the "cult of personality" which he believed was reflected in 1936 Constitution.⁷⁸

On 25 April 1962, Khrushchev's idea of a new Constitution became a formal proposal for constitutional reform presented to the Supreme Soviet. A constitutional commission was established in order to consider the formulation of provisions that would reflect the progress toward full-scale communist construction in the Soviet Union. Khrushchev spoke to the commission on 16 June 1962, and outlined its basic tasks, but this was the last reported meeting of the commission until May 1977.

Constitutional reform became Brezhnev's concern following the ouster of Khrushchev in October 1964. In his pre-election speech of 10 June 1966, Brezhnev announced that the Constitution would be completed one year later in time for the Fiftieth anniversary of the Revolution, but this event passed without Brezhnev actually producing it. In December 1972, after five years of silence on the issue, Brezhnev revived the idea of a constitution, but a draft was not completed until June 1977. The draft was subjected to a four month nationwide discussion which allegedly led to numerous alterations before the final version of the 1977 Constitution was published on 7 October 1977 in time for the Sixtieth anniversary of the Revolution.

Any attempt to pinpoint the cause of delay in formulating the new Constitution would be laced with

speculation.⁷⁹ Still, it is quite possible that the international human rights debate, that was spawned in part by the Helsinki Final Act, influenced the formulation and completion of some sections of the Constitution. For the purpose of this study, it should be noted that the new Constitution was completed two years after the signing of the Final Act and in the same year as the first CSCE follow-up meeting in Belgrade. This has allowed the Soviet leadership to cite the text, properly or improperly, as evidence of Soviet compliance with the Final Act.

Krutogolov writes:

The provisions of the Constitution reflect those obligations which the Soviet Union undertook in accordance with international treaties and agreements. This relates primarily to such important international documents as the UN Charter and the Final Act of the Helsinki Conference on Security and Cooperation in Europe. Article 29 of the Fundamental Law of the USSR sets out the basic principles on which the Soviet Union builds its relations with other states and which correspond to the ten points on the Helsinki Final Act.⁸⁰

A. Movchan extends these comments a step further by claiming that the new Soviet Constitution actually gives even more rights to Soviet citizens than is proclaimed in international documents.⁸¹ Thus, the first major point about the new Constitution is that the timing of its completion was significant for the debate over the Final Act.

Second, on the topic of human rights, the 1977 Constitution modified substantially the 1936 Constitution. In the most general sense, it is alleged that the Soviet Union is now an "all-people's state" and a "developed socialist society," which automatically enhances the equality of its citizens. If Soviet commentators are to argue that the Soviet Union has reached a higher stage of socialism, then they must also claim a corresponding increase in human rights. They commonly tackle this problem on two fronts: first, by citing specific new provisions in the 1977 Constitution; and second, by asserting that the new atmosphere allows for fuller implementation of current and pre-existing provisions.

There are two chapters concerned directly with the rights of citizens, rather than one as in the 1936 Constitution. Chapter 6 is entitled, "Citizenship of the U.S.S.R.--Equality of Citizens." Chapter 7 is devoted to the "Fundamental Rights, Freedoms and Duties of Citizens of the U.S.S.R." Here, many rights have remained from the 1936 Constitution as Soviet citizens are guaranteed the rights to: work (Article 40), rest and leisure (Article 41), health care (Article 42), social insurance (Article 43), education (Article 45), speech, press and assembly (Article 50) and freedom of conscience (Article 52). New rights include a reduction of working time for women with

small children (article 35), systems of vocational guidance and placement (Article 40) and the right to elect or to be elected to elective state organs (Article 48). As examples of new rights, one can cite the prohibition of persecution for criticism (Article 49), the right of citizens to lodge a complaint against the actions of officials and state and public bodies (Article 58) and the right to housing (Article 44). According to Soviet authors, these and other provisions are either entirely new or they had previously been part of legislation, but now had become constitutional norms.⁸² On paper, these guaranteed rights bring human rights in the Soviet Union fully into line with Principle Seven of the Helsinki Final Act.

But the third point is that while these rights have increased quantitatively, they have been thoroughly disassembled qualitatively through an excess of individual duties or obligations to the State. The introductory article (39) of Chapter 7 states that the "exercise by citizens of rights and freedoms must not harm the interests of society and the state or the rights of other citizens." This is an argument accepted by Western legal theorists. But the Soviet constitution goes a step further in Article 59 where it stipulates that "[c]itizens exercise of their rights and freedoms is inseparable from

the performance of their duties and obligations." The new duties, which were absent from the 1936 Constitution, are "to promote the growth of the power and authority of the Soviet state" (Article 62) and "to promote in every way the protection of public order" (Article 65). Valentin Patyulin openly admits that these are new duties by arguing that:

The extension of civil rights and the strengthening of the guarantees of their implementation presuppose, in their turn, the growing responsibility of the individual to the state and society, a more conscientious discharge by citizens of their duties envisaged by the Constitution has introduced duties in addition to those provided for by the 1936 Constitution.⁸³

In essence, Patyulin has stated that the more rights that Soviet citizens receive, the more corresponding duties they will also absorb.

As presented in the previous section, human rights in the Soviet Union are gifts of the State. The new Constitution confirms this fact as the exercise of political rights must serve State interests, that is, rights are limited to those which "strengthen and develop the socialist system" (Article 50). Thus, one can ascertain that the duties of Soviet citizens far outweigh the corresponding rights which, in the words of one Western commentator, "illustrates a serious case of constitutional overkill."⁸⁴ In this sense, the Soviet

interpretation of the Final Act is consistent with the human rights provisions of the Soviet Constitution, but it is an interpretation that is unacceptable to Western nations.

A fourth and final point about the 1977 Constitution is that the extraordinary emphasis on the principles in Basket I of the Final Act is represented within the Constitution itself. Chapter 4, Article 29, sets out the principles of relations between the Soviet Union and other states and includes the Final Act's principles in toto. In fact, one Western observer, Aryeh Unger, has stated:

they appear to have been taken almost verbatim from the headings of the relevant sections of the Final Act of the 1975 Helsinki Conference on Security and Cooperation in Europe. This reversal of the first two principles in the final version of article 29 brought them into line with the order in which they are listed in the Helsinki accord.⁸⁵

He also claims that:

the Soviet Union, by including the Helsinki catalogue in its constitution, has become the first state to have transformed such an impressive catalogue of international norms into its domestic fundamental law [but] this may not increase the likelihood that the Soviet leadership will actually observe all or any of these norms in its relations with foreign states....⁸⁶

Nevertheless, the fact that all of these principles were included in the Constitution confirms the significance of

Basket I and the broader Helsinki process for the Soviet leadership.

In conclusion, while the presentation of human rights in the 1977 Constitution may appear to coincide with the Western democratic perception of human rights, closer inspection illustrates that, in fact, the antithetical Soviet interpretation has remained intact. This has grave consequences for the Final Act, at least from the Western perspective, because the human rights provisions negotiated in Helsinki and Geneva are to be implemented domestically through each nation's legal system. As described in the following section, the Soviet leadership rejects international commentary on its internal policies, and using the new Constitution as an example, the Soviet leaders are unlikely to modify their domestic human rights policy along the lines of the Western concept of democracy in the foreseeable future.

HUMAN RIGHTS DEBATE IN THE INTERNATIONAL FORUM

The most frequent Soviet response to international criticism of human rights abuse in the Soviet Union, is that such matters fall within the domestic jurisdiction of states. In the official Soviet view, human rights are not a legitimate concern for the international community and

any complaint voiced by a foreign government encroaches upon the sovereignty of the Soviet Union as outlined in the first principle of the Final Act. Therefore, Soviet government officials and human rights specialists have formulated a doctrine revolving around three concepts: non-interference in internal affairs; gross and massive violations; and peaceful coexistence. Application of this doctrine allows the Soviet leadership to shield criticism while providing the theoretical basis to criticize the human rights performance of other nations.

In Principle Six of the Final Act, the participating nations pledge the following:

[to] refrain from any intervention, direct or indirect, individual or collective, in the internal or external affairs falling within the domestic jurisdiction of another participating State, regardless of their mutual relations.

The same provision is included in the Charter of the United Nations, Article 2(7) and supported by Article 29 of the Universal Declaration of Human Rights. The idea of non-interference in the internal affairs of other countries accentuates the individual responsibility of governments to implement international agreements within their own countries. The majority of legal theorists in the East and West accept the concept of domestic implementation which is confirmed in Articles 55 and 56 of the United Nations Charter, as well as in the preamble of the

United Nations covenants. When a particular government does not implement an international agreement and fails to fulfill an obligation, there is little that other nations can do short of enacting trade sanctions and curtailing other interstate activity of benefit to the country in question. But retaliatory action of this type is likely to damage diplomatic relations to the point where the complaining state suffers as well.⁸⁷

Ironically, Soviet spokespersons argue that the international documents mentioned above, which are intended to establish international standards, actually legitimize the internal standards set by each government. This is especially true with reference to human rights. According to G.I. Tunkin, "the principle field of struggle for human rights is the internal system of a state, and especially its socio-economic system."⁸⁸ State implementation according to the Soviet definition means that only individuals in the Communist Party and state apparatus decide when human rights are violated. For example, when in 1976 Soviet citizens established a series of unofficial Helsinki Monitoring Groups (in Moscow, the Ukraine and Armenia), numerous members were arrested and imprisoned, not only because monitoring Soviet compliance was a state function, but also due to the fact that this activity was actually anti-Soviet.⁸⁹

By stressing the purely internal nature of human rights, Soviet specialists have presented domestic law as superior to international law. This viewpoint is not easily dismissed for it has firm foundations in statist assumptions about sovereignty that have dominated international conduct for well over three centuries.⁹⁰ Soviet writers who rely on the primacy of sovereignty, consistently claim that each government is responsible for interpreting the relevant international provision and then incorporating it into domestic legislation. The human rights debate provides one of the clearest examples of the debate over the relationship between domestic and international law. Those persons who point to the primacy of international law often cite the example of Nazi genocide against Jews during World War II. According to this interpretation, the Nuremburg Trials set a precedent which changed the traditional notion of the exclusive domestic control over citizens, although it should be noted that the trials of Nazis were ex post facto and they are not examples of intervention before or during a violation. Allegedly, international citizenship, with international remedies for human rights abuse, was a by-product of the World War II experience.⁹¹

By contrast, Tunkin refers to this alleged development as an:

intrusion of the regulatory influence of international law into the domain of human rights [and] does not mean that human rights are directly regulated by international law nor that they have ceased basically to be the domestic affair of a state.⁹²

Chizov claims that the idea of world citizenship has never gained wide popularity except in the capitalist countries when using it against the socialist nations.⁹³

Soviet insistence on the superiority of domestic law has been giving way to a more "internationalist" approach, but this has done little to change the Soviet position on human rights. Y.A. Korovin views domestic and international law as co-equals, but "by promulgating a law clearly contrary to International Law, the government concerned commits a violation of International Law, for which the State concerned is responsible under International Law...."⁹⁴ While this is a promising sign that some Soviet legal theorists may accept international remedies for human rights abuse, the longstanding view of exclusive domestic jurisdiction remains in the most recent writings on the subject, especially in the field of human rights.⁹⁵

The Final Act has not bridged the gap between these antagonistic viewpoints. When the United States Congress decided to create a Commission for Security and Cooperation in Europe to monitor other nations' compliance with

the agreement, the Soviet response was that this violated the principle of non-interference.⁹⁶ Virtually any enquiry into human rights in the Soviet Union elicits this response. Samuel Zivis claims that there is a logical connection between Principle Six and Principle Seven and that they were deliberately placed side-by-side in order to prevent some nations from using the human rights issue to subvert the political foundations of other nations.⁹⁷

Yet, if the rights of citizens are a purely domestic matter, how can the Soviet leadership justify the actions against Nazi war criminals? According to the official position, these crimes fall into the special category of "gross and massive violations against humanity" and include especially serious violations such as genocide, apartheid, colonialism, foreign occupation and threats against national sovereignty and self-determination.⁹⁸ The Soviet leadership denies that any gross and massive violations occur in the Soviet Union, a point disputed by certain groups of Ukrainians, Crimean Tatars, Jews and Baptists, to name only a few.⁹⁹ Most interestingly, the category of gross and massive violations allows the Soviet leadership to criticize other governments, like Chile, South Africa and Israel, without violating their internal affairs.¹⁰⁰ In reference to the United States, criticism usually centres on discrimination against American Blacks

and American Indians.¹⁰¹ But the justifications for criticism against other nations appears hypocritical given the sweeping use of the non-interference doctrine by the Soviet leadership. And one could ask how large a violation must become before it is gross and massive. Using the Soviet definition, the international community is excluded from action before human rights violations develop on a large scale. This displays a lack of concern for the individual abuses that can occur.

Another Soviet response to the international debate over human rights is that this issue contradicts the principles of peaceful coexistence. This point is particularly difficult to accept given the fact that peaceful coexistence excludes military competition, but actually encourages ideological competition.¹⁰² Y. Molchanov elaborates on the definition of peaceful coexistence:

The Marxist-Leninist concept of peaceful coexistence does not consist merely in an absence of wars in relations between social and capitalist states...[it] presupposes, as a major element, the establishment and promotion of variegated and mutually advantageous cooperation between countries with differing social systems....¹⁰³

To Western theorists, the human rights issue lies at the heart of legitimate and peaceful East-West ideological competition. Former General Secretary Brezhnev appeared

to use this reasoning when he contended that "the truth of history and objective laws of social development are on our side."¹⁰⁴ What better way to display the alleged superiority of the Soviet system than to participate in an open human rights debate in which the citizens of all countries are permitted to compare and contrast the advantages of the Soviet system to others in a truly open forum?

The link between ideology and human rights is recognized by S. Zivs who makes this point emphatically:

There is not, and cannot be, a conception of human rights outside ideology, just as there can be no concrete ideology of human rights outside philosophical systems.¹⁰⁵

American criticism of the Soviet version of human rights guarantees is considered by the Soviet leadership a "psychological attack" designed to damage the Final Act and to try to tip the balance of forces against socialism. The Soviet position has been that criticism of the lack of human rights will damage detente even though human rights are integral to the Helsinki process. Such criticism is considered an aggressive attack at the internal structure of the Soviet social system. But does this also apply to nations of the same social system?

To answer this latter question it is necessary to examine briefly the Soviet concept of "socialist inter-

nationalism" or "proletarian internationalism" which appears to contradict the non-intervention doctrine.¹⁰⁶ As one of the main principles of socialist law, socialist internationalism dictates relations between socialist states.¹⁰⁷ It provides for "the fraternal friendship, close cooperation, and mutual assistance of the working class of various countries in the struggle for their liberation."¹⁰⁸ According to Soviet legal scholar, G.I. Tunkin:

The principal of comradely mutual assistance includes the rights of each state of the world system of socialism to obtain assistance from other socialist countries and, at the same time, the obligation of each socialist state to render assistance to other socialist countries. This obligation of mutual assistance applies equally to the spheres of political, economic, military, and other relations.¹⁰⁹

The eventual corollary to socialist internationalism was the so-called "Brezhnev Doctrine" used to justify Soviet intervention in Czechoslovakia in September 1968. This apparent gross violation of the non-interference doctrine was justified by Brezhnev in an address to a Polish United Workers Party Congress in Warsaw on 12 November 1968:

Naturally, an action such as military assistance to a fraternal country designed to avert the threat to the socialist system is an extraordinary step and may be taken only in case of direct actions of enemies of socialism within the country and outside it, actions threatening the common interests of the socialist camp.

Article 8 of the Warsaw Pact, which contains its own non-intervention principle, is effectively overridden by this doctrine.¹¹⁰ While the Western delegations in the CSCE were able to block all efforts to include the phrase "socialist internationalism" in the Final Act, they did have to concede terminology desired by the Soviet representatives in the non-intervention principle which disallows ideological intervention, rather than the more limited context of armed intervention. But even in this case, it is clear that the "Brezhnev Doctrine" contravenes the Final Act as it definitely involves armed intervention and is inconsistent with the Soviet leadership's own definition of peaceful coexistence.

In conclusion, the Soviet strategy for debating human rights in the international forum has included three main components: non-interference in internal affairs, gross and massive violations and peaceful coexistence. Even though the application of these concepts is frequently inconsistent, they have effectively diluted most of the criticism directed against the Soviet human rights record.

CONCLUSION

The Soviet interpretation of human rights in the Helsinki Final Act has been consistent with Soviet

negotiating positions during the CSCE. Because the official Soviet viewpoint is a direct reflection of ideological and political perceptions, it is unlikely that the Soviet leadership will ever adopt a "natural rights" notion of human rights even though some individual rights are developing under Gorbachev. Since the Helsinki Final Act is not a legally binding document and cannot be enforced except through political pressure, Western leaders would be unwise to attempt to force Soviet representatives to the ongoing CSCE follow-up meetings to accept an antithetical interpretation of the provisions of the Final Act. But, as will be presented in the next chapter, a small number of Soviet citizens did interpret the Final Act in the same terms as leaders in the United States. This small group of individuals who surfaced during the Carter administration had a dramatic impact on relations between the United States and the Soviet Union in the sphere of human rights.

ENDNOTES

1. Final Act of the Conference on Security and Cooperation in Europe, 1 August 1985. 73 Department of State Bulletin 323 (1975) and 14 International Legal Materials 1292 (1975).
2. Koldayev, V., Soviet Citizens: Their Rights and Duties (Moscow: Novosti Press Agency, 1976), p. 6. Also, Krutogolov, M.A., Talks on Soviet Democracy (Moscow: Progress Publishers, 1980), pp. 14-16.
3. Pravda, 7 August 1975 in Current Digest of the Soviet Press, Vol. 27, no. 31, pp. 13-14.
4. See, "Deklaratsiia Gosudarstv--Uchastnikov Varshavskogo Dogovora Priniata na soveshchaniia politicheskogo konsul'tativnogo komiteta v Moskve" (23 November 1978) in Na puti prolozhennomu v Khel'sinki: Sovetskii Soiuz i osushchestvlenie Zakliuchitel'nogo akta obshcheevropeiskogo soveshchaniia (Moscow: Politizdat, 1980), pp. 164-183; Gromyko, A.A., "Iz vystupleniia na XXXIV sessii General'noi Assamblei OON" (25 September 1979) in Ibid, pp. 59-62.
5. Movchan, A.P., Prava cheloveka i mezhdunarodnye otnosheniia (Moscow: Navka, 1982), p. 16; Shakhnazarov, G.Kh., "The Problem of Peace: An Analysis of Basic Concepts," The Soviet Review, Vol. 21, no. 3 (Fall 1980), p. 4; Tunkin, Grigory (ed.), Contemporary International Law (Moscow: Progress Publishers, 1969), pp. 26-8.
6. Kaoru Tasu actually narrows it to one principle, "in my view," he writes, "one cannot but note the primary significance of one--the principle of inviolability of frontiers. Putting it into practice in relations between states eliminates the potential danger of conflicts." The Helsinki Conference: Results and Prospects: A Collection of Articles Carried in the Soviet Press on the Significance of the Conference on Security and Co-operation in Europe (Moscow: Novosti Press Agency, 1976), p. 42. Soviet commentator Viktor Glazunov claimed that it was especially important to single out the principle of inviolability of frontiers in the first basket. See, British Broadcasting Corporation, Summary of World Broadcasts, SU/4972/A1/3-4 (4 August 1975). For similar comments in the East European press see, Balcar, Ladislav, "On the Basis of Mutual Advantages," Czechoslovak Life,

No. 11 (November 1975), pp. 1, 10 and Polish Weekly (editorial), No. 35 (1 September 1975), p. 2.

7. A more thorough discussion of peaceful coexistence will be presented later in this chapter.

8. Jakko Iloniemi, the Executive Secretary at the CSCE, expressed this view during an interview in January 1984. Also see, Arbatov, Georgi, Izvestiia, 4 September 1975, pp. 3-4 in Current Digest of the Soviet Press, Vol. 27, no. 36 (1 October 1975), pp. 1-6.

9. Ignatenko, G.V. "Zakliuchitel'nyi Akt Obshcheevropeiskogo Soveschaniia v Khel'sinki," Pravovedenie, No. 3 (1976), p. 103. Chkhikvadze states that the Final Act is legally binding, or as he writes it, the document has a "formal, legally binding nature...." Chkhikvadze, V.M., "Human Rights and the Ideological Struggle," The Soviet Review, Vol. 19, no. 2 (Summer 1978), p. 8. This claim is also present in an East German periodical in a statement that the Final Act solidifies "the obligatory recognition under international law [emphasis added] of the political and territorial realities which emerged as a result of the Second World War and of post-war developments...." See, "Ten Years After the Helsinki Final Act," GDR Review (August 1985), Berlin: Verlag Zeit im Bild, pp. 47-8.

10. Malinin's argument is reproduced in Lapenna, Ivo, Human Rights: Soviet Theory and Practice, Conflict Studies No. 83 (May 1977), London: Institute for the Study of Conflict, p. 3.

11. The guidelines for the creation of an international custom with legal force are presented most clearly by Soviet legal theorist, I.I. Lukashuk. He defines an international custom as "an unwritten rule which the States recognize as legally binding (opinio sui necessitatis juris)." The representatives of states may, however, abide by unwritten rules which they do not regard as legally binding, but are regulatory through "usage or comity (comitas gentium)." Interestingly, Lukashuk argues that usage can become custom, but customary rules can potentially lose their legal character and be reduced to comities at any time. According to Lukashuk, the formation of a custom generally "is a lengthy process" although a custom may, in some exceptional circumstances form "very quickly as a result of states' recognition of a certain precedent." An important precondition for the

formation of a custom is the absence of protest or disagreement.

Using this definition, the Final Act is not custom but comity for it is not recognized unanimously as legally binding and is much too recent a document to have evolved into a customary rule of law. Both categories (custom and comity) are most commonly used to refer to unwritten rules which may exclude the Final Act altogether. In any case, Malinin's view that the Final Act is already a part of customary international law is certainly contestable. See, Lukashuk, I.I., "Sources of Present-day International Law" in Tunkin, pp. 174-178. Also, Wolfke, Karol, Custom in International Law (Wroclaw, 1964). For similar views on the guidelines for customary law in Western legal literature, see, MacGibbon, Ian C., "Customary International Law and Acquiescence," The British Yearbook of International Law, 1957. Professor MacGibbon expressed agreement with Lukashuk's views on international custom during an interview in Edinburgh in April 1983. He emphatically rejected the claim that the Helsinki Final Act is a legally enforceable document in its own right.

12. British Broadcasting Corporation, Summary of World Broadcasts, SU/4971/Al/1-2 (2 August 1975).

13. Soviet Life, No. 9 (September 1976) pp. 3, 23. See also, Mitin, M.B., "The Social System and the Problem of Human Rights," Soviet Review, Vol. 19, no. 2 (Summer 1978), pp. 19-34 from, Voprosy filosofii, No. 4 (April 1977), p. 31. For a synonymous East European view (Bulgarian) see, Petrov, Lyuben, "Dokument na mira i sotrudnichestva" in Mezhdunarodni otnosheniia, No. 2 (1976), pp. 44-5.

14. Ferraris, Luigi (ed.), Report on a Negotiation: Helsinki-Geneva-Helsinki, 1972-1975 (Alphen aan den Rijn: Sijthoff and Noordhoff, 1979), p. 342.

15. Frowein, Jochen Abr., "The Interrelationship Between the Helsinki Final Act, the International Covenants on Human Rights and the European Convention on Human Rights," in Buergenthal, Thomas (ed.), Human Rights, International Law and the Helsinki Accord (Montclair: Allanheld, 1977), p. 72.

16. Dominick, Mary Frances (ed.), Human Rights and the Helsinki Accord: A Five Year Road to Madrid (Nashville, Tenn.: William S. Hein and Co., 1981), p. 54.

17. Valentinov, A., "One Year After Helsinki," International Affairs, Vol. 9 (September 1976), p. 25.

18. Ibid, notes 12 and 13. See also, Pravda, 20 February 1976, pp. 3-5 in Current Digest of the Soviet Press, Vol. 28, no. 7 (17 March 1976), pp. 1-7 and Rakhmaninov, Y., "Europe: Principles of Security and Cooperation," International Affairs, Vol. 2 (February, 1976), p. 47. See also, Kartashkin, Vladimir, "International Regulation of Fundamental Human Rights and Freedoms," in Socialism and Human Rights, Problems of the Contemporary World (No. 75), Social Sciences Today Editorial Board, USSR Academy of Sciences (Moscow, 1979), p. 167.

19. Nekrasov states: "True, the Final Act's principles on the sovereign equality of states and their inalienable rights did confirm the legally valid provisions of a number of treaties between countries and other documents signed in recent years. The principles were based on the generally recognized propositions of international law, including the UN Charter." Nekrasov, p. 3. See also, Izvestiia, 28 August 1975, p. 4 in Current Digest of the Soviet Press, Vol. 27, no. 35 (24 September 1975), p. 2. Also, "Deklaratsiia Gosudarstv--Uchastnikov Varshavskogo Dogovora: Priniata na soveshchanii politicheskogo konsul'tativnogo komiteta v Moskve" (23 November 1978) in ibid, note 4, p. 176.

20. Kartashkin, Ibid, note 18, pp. 166-7. See also, Kartashkin, V.A., "Soveshchanie po bezopasnosti i sotrudnichestvu v Evrope i prava cheloveka," Sovetskoe Gosudarstvo i Pravo, Vol. 4 (April, 1976), p. 90 and Mazov, V.A., Printsipy Khel'sinki i mezhdunarodnoe pravo (Moscow: Nauka, 1978), pp. 159-66.

21. Principle Seven states: "The participating States will respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without the distinction as to race, sex, language or religion."

Also: "The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and co-operation among themselves as among all States."

22. Vladimirov, C. and Teplov, L., Kursom Khel'sinkskikh Dogovorennostei (Moscow: Mezhdunarodnye otnosheniia, 1980).
23. Ibid, p. 3.
24. For a reference to the "right to life" or right to survival from a nuclear war see, Medvedev, F. and Kulikov, G., Human Rights and Freedoms in the USSR (Moscow: Progress Publishers, 1981), pp. 220-56.
25. Vladimirov and Teplov, pp. 7-8.
26. Ibid, p. 8.
27. Ibid, p. 7.
28. "Obrashchenie k parlamentam i parlamentariiam gosudarstv, podpisavshikh Zakliuchitel'nyi Akt Soveshchaniia po Bezopasnosti i Sotrudnichestvu v Evrope (6 iiulia 1977g.) in Po puti prolozhennomu v Khel'sinki: Sovetskii Soiuz i osushchestvlenie Zakliuchitel'nogo Akta obshcheevropeiskogo soveshchaniia (Moscow: Politizdat, 1980), p. 158. Petrenko and Popov write that "as the 1970's ended and the 1980's approached, the international situation became sharply worse. There were many reasons for this, the main one being the mounting political adventurism of the most aggressive imperialist circles, especially those of the United States." p. 172.
29. Vladimirov and Teplov, pp. 4-5. According to Gromyko and Kirolenko: "The problem of human rights is at the center of the confrontation of the two socio-political systems, of the two ways of life, of two directions in world politics, and is a part of the present stage of the acute ideological struggle between socialism and capitalism. The Soviet Union, you see, vigorously and uncompromisingly conducts the ideological struggle against imperialism on the whole range of questions of human rights, but distinguishes between such political and ideological questions and the broader questions of international relations. Such an approach accentuates the necessity [first] of normalizing relations between sovereign states." See Gromyko, A. and Kirolenko (eds.), Bor'ba SSSR v OON za mir, bezopasnost' i sotrudnichestvo, 1945-1985 (Moscow: Izdatel'stvo, 1986), pp. 313-14. Sivachev, N. and Yakovlev, N., Russia and the United States: US-Soviet Relations From the Soviet Point of View (London: University of Chicago Press, 1979), pp. 249-63.

Petrenko, F. and Popov, V., Soviet Foreign Policy: Objectives and Principles (Moscow: Progress Publishers, 1985), pp. 262-5.

30. Vladimirov and Teplov point to the Conference of Communist and Workers Parties held in Berlin, 29-30 June 1976. In his speech to the participants of that conference, Brezhnev argued that human rights and international security are invariably tied to the spread of socialism. He stated that "the foreign policy of the USSR is directed toward the consolidation of peace and freedom of people and our internal policies have been aimed toward the building of communism, which is not only in the fundamental interests of Soviet people, but also represents our dedication to the general struggle for communism in all the world and for a better future for humanity." But he then noted that the "reactionary circles of large-scale capital...have aimed to prevent political detente and cooperation in order to undermine the resolutions of the conference in Helsinki and to revive an atmosphere of tension and confrontation in interstate relations." This is why, according to Vladimirov and Teplov, the concluding document of the Berlin meeting called for "solidarity in the struggle against multinational monopolies which crudely violate the national interests of peoples and the sovereignty of states." Here, the assertion that only the spread of socialism can assure human rights is quite explicit. Vladimirov and Teplov, pp. 186-9.

31. For a brief summary of Soviet activity in the United Nations to protect the human rights of various national groups, see, Gromyko and Kirolenko (eds.), pp. 248-78.

32. Kartashkin, V.A., "Soveshchanie po bezopasnosti i sotrudnichestvu v Evrope i prava cheloveka," Sovetskoe Gosudarstvo i Pravo, Vol. 4 (April 1976), p. 90. Soviet authors agree that all governments are obligated to respect the rights mentioned in these documents. They also write that Soviet legislation is fully in accord with them. See, Kudriavtsev, V., "The Rights of Man and the Ideological Struggle," Soviet Law and Government, Vol. 13, no. 3 (Winter 1974-5), pp. 86-95. Vitruk, N., "Political and Personal Rights and Freedoms of Soviet People," Socialism and Human Rights, Problems of the Contemporary World (No. 75), Social Sciences Today Editorial Board, USSR Academy of Sciences (Moscow, 1979), pp. 83-4.

33. Brownlie, Ian, Basic Documents on Human Rights, (Oxford: Clarendon Press, 1971), p. 94.

34. A.P. Movchan writes that the "Charter is the international document which, for the first time in the history of international relations, has secured the principle of universal respect for fundamental human rights and freedoms for all without distinction as a principle of international law." He also states that the "legal force of these obligations for all UN member states is not to be doubted. It is determined by the legal nature of the UN Charter as a special kind of international treaty." Movchan, A., "The Human Rights Problem in Present-Day International Law (UN Charter on Human Rights)" in Tunkin, G. (ed.), Contemporary International Law, trans. by William E. Butler, (London: George Allen and Unwin, Ltd., 1974), p. 80 and Academy of Sciences of the USSR, Institute of State and Law, International Law: A Textbook for Use in Law Schools, (Moscow: Foreign Languages Publishing House, 1957), p. 247. See also, Slusser, Robert and Triska, Jan, The Theory, Law, and Policy of Soviet Treaties (Stanford: Stanford Univ. Press, 1962), p. 26.

35. Two classical Western interpretations of the lack of legal force of the UN Declaration are presented by H. Kelsen and H. Lauterpacht. Kelsen writes that the resolution "has probably the character of a recommendation although it does not present itself expressly as such...[but] it is significant that the General Assembly did not adopt a draft convention on human rights to be submitted to the Members for ratification. It stands to reason that the resolution of the General Assembly on Human Rights has no legal effect whatever. It cannot be considered as [sic] authentic interpretation of the provisions of the Charter referring to human rights. An authentic interpretation is possible only by an amendment to the Charter." According to Lauterpacht, the "practical unanimity of the Members of the United Nations in stressing the importance of the Declaration was accompanied by an equally general repudiation of the idea that the Declaration imposed upon them a legal obligation to respect the human rights and fundamental freedoms which it proclaimed. The debates in the General Assembly and in the Third Committee did not reveal any sense of uneasiness on account of the incongruity between the proclamation of the universal character of the human rights forming the subject matter of the Declaration and the rejection of the legal duty to give effect to them. The delegates gloried

in the profound significance of the achievement whereby the nations of the world agreed as to what are the obvious and inalienable rights of man--so obvious and fundamental that they considered the suggestion of describing them as grounded in nature to import to the Declaration an undesirable element of controversy and confusion--but they declined to acknowledge them as part of the law binding upon their States and Governments. They gave occasional expression to the view that any apparent inconsistency between the fact of the general agreement as to what are fundamental human rights and the refusal to recognize them as juridically binding in the sphere of conduct was fully resolved by the acknowledgment of their validity in the realm of conscience and ethics." More contemporary theorists have not clarified the status of the Declaration. R. Higgins has claimed that the Declaration, "though not a treaty, has not been without legal effect. Many of its clauses have come to be recognized as declaratory of general international law and moreover certain states expressly accepted the Declaration. There have been many instances, in various jurisdictions, where domestic courts have relied on the terms of the Declaration. The intention of the Covenants was to provide a firm treaty basis to build on the experience of the European experiment in human rights and to incorporate those views of the intervening twenty years which sought to translate aspirations into human rights. Above all, the opportunity was to be taken to provide machinery for scrutiny and enforcement wherever possible." See, in chronological order, Kelsen, Hans, The Law of the United Nations (New York: Frederick A. Praeger, 1950), pp. 39-40. Lauterpacht, H., International Law and Human Rights (New York: Frederick A. Praeger, 1950), pp. 397-8. Higgins, Rosalyn, "Conceptual Thinking About the Individual in International Law" in Falk, Richard (ed.), International Law: A Contemporary Perspective (London: Westview Press, 1985), p. 484. For an unusual account by an author who claims that an entirely new "process" for recognizing human rights is being initiated, see, Marks, Stephen P., "Emerging Human Rights: A New Generation for the 1980's?" in Falk, pp. 501-13.

36. Ibid, note 11. Soviet authors commonly claim that the Universal Declaration reiterates legally binding principles, but they do not recognize its individual legal status. For example, Movchan comments that "with the coming into force of the U.N. Charter there appeared in present-day international law a new, general rule of law binding on all states: the principle concerning universal

respect for human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion. This principle was further confirmed and developed in a number of multilateral and bilateral international documents as well as in the provisions of the national legal systems of different states. We may cite, for instance, such international declarations as the U.N. Universal Declaration of Human Rights...." Movchan in Tunkin (ed.), Contemporary International Law, p. 237. See also, Kartashkin, note 18, p. 164. For commentary that the Universal Declaration is especially important because it was initiated by the Soviet Union and represents the socialist conception of rights, see, Kuritsyn. V., The Development of Rights and Freedoms in the Soviet State (Moscow: Progress Publishers, 1987), p. 11 and Mazov, V., Printsipy Khel'sinki i mezhdunarodnoe pravo (Moscow: Nauka, 1980), p. 159.

37. Novoe Vremia, 28 September 1973, p. 8. Kudriavtsev has stated explicitly that the International Covenant on Economic, Social and Cultural Rights allows a signatory nation "to establish limits on rights 'defined by law, and only to the degree that this is compatible with the nature of these laws, and exclusively for the purpose of promoting the general welfare in a democratic society'." Kudriavtsev, note 32, p. 93. See also, Vitruk, p. 83.

38. Kuritsyn, note 36, pp. 11-12. See also, Vladimirov and Teplov, p. 188.

39. Kartashkin, Socialism and Human Rights, p. 167.

40. See, Sieghart, Paul, The International Law of Human Rights (Oxford: Clarendon Press, 1983), pp. 30-2 and 445-80. The International Covenant on Civil and Political Rights was ratified on 23 March 1976. The International Covenant on Economic, Social and Cultural Rights was ratified on 3 January 1976.

41. The broad agreement on this point is represented by Kelsen, p. 29, Kuritsyn, p. 90, Tunkin, G., Theory of International Law, trans. by William E. Butler (London: George Allen and Unwin, 1974), p. 83, Pravda, 25 November 1980, p. 5 in Current Digest of the Soviet Press, Vol. 32, no. 47 (24 December 1980) pp. 19-20. Kartashkin writes that the "Helsinki Conference reaffirmed the important provision that the immediate legal regulation of human rights and freedoms belongs to the internal jurisdiction

of states." Kartashkin, Socialism and Human Rights, p. 155. Lauterpacht believes that the lack of an enforcement mechanism has led to "imperfect legal rights" within the internal jurisdiction of states. Lauterpacht, pp. 31-5 and pp. 154-60. Werner claims that statesmen "agree that they are sovereign and [emphasis added] that they are bound by international law." But he continues, "the international social organization they have created, and the law that supports it, have made sovereignty as well as obedience to international law a practical possibility. But it is a limited possibility. The extent of independence and the extent of obligation vary depending upon how much states need each other." After applying Werner's rationale to Soviet-American disagreements over human rights, it is obvious that there is little need to cooperate. Werner, Levi, Law and Politics in the International Society (London: Sage Publications, 1976), pp. 41-2.

42. Kartashkin, "Soveshchanie po bezopasnosti...", p. 89 See also, Lapenna, Ivo, Human Rights: Soviet Theory and Practice, Conflict Studies No. 83 (London: Institute for the Study of Conflict, May 1977), p. 6. Also, Razmerov, V., "Velichaishee pravo cheloveka," Mirovaia ekonomika i mezhdunarodnye otnosheniia, No. 7 (July, 1978), pp. 3-12.

43. Nikitin, V., "Peaceful Coexistence and Soviet-US Relations," International Affairs, Vol. 6 (June 1974), p. 6 and Brezhnev, L., "Vystuplenie na soveshchanii po bezopasnosti i sotrudnichestvu v Evrope (31 Iiulia 1975g.), Po puti, prolozhennomu v Khel'sinki (Moscow: Politizdat, 1980), pp. 19-23.

44. Vladimirov and Teplov, p. 14.

45. Shakhnazarov, G., "Socialist Way of Life: All round Development of the Individual" in Socialism and Human Rights, pp. 5-28.

46. Krutogolov, M., Talks on Soviet Democracy (Moscow: Progress Publishers, 1980), p. 10.

47. Ibid, p. 11. Tunkin writes: "The Bolshevik party naturally strove so that the leading role in realizing self-determination of nations belonged to the working class and so that the self-determination of nations was part of the socialist revolution. And in this instance, as the experience of the self-determination of

the nations that had been part of the former Russian Empire is confirmed, self-determination can be realized most completely and profoundly when one finds expressed therein the interest and the will of the working people, the overwhelming majority of a nation." Theory of International Law, p. 8. Also, Kuritsyn, pp. 17-56.

48. Krutogolov, p. 13.

49. Bestuzhev-Lada, I.V., "Social Problems of the Soviet Way of Life," Soviet Review, Vol. 19, no. 1 (Spring 1978), p. 7 from "Sotsial'nye problemy sovetskogo obraza zhizni," Novy mir, Vol. 7 (July, 1976).

50. Ibid, pp. 26-7.

51. Mitin writes that capitalism is not the appropriate socio-economic system to secure rights. And he presents a gloomy picture for the future when he states that "violations of elementary human and individual rights are increasing in bourgeois society as a consequence of the acute instability of capitalism, the antagonistic character of its difficulties and contradictions, its decay of morality and spirit. One may say without fear of contradiction that such a mass-scale and excessive violation of the rights of the individual under capitalism as is observable today has never previously been the case (except for the period of the dominance of fascism in Germany)." Mitin, M.B., "The Social System and the Problem of Human Rights," Soviet Review, Vol. 19, no. 12 (Summer 1978), pp. 21-2 from "Sotsial'nyi stroi i problema prav cheloveka," Voprosy filosofii, No. 4 (April 1977), pp. 102-110. See also, Kouzmin, E., "Dva tipa demokratii i bor'ba idei," Mirovaia ekonomika i mezhdunarodnye otnosheniia, No. 11 (November, 1977), pp. 82-99.

52. Shakhnazorov, G. Socialism and Human Rights, pp. 5-6. Kuritsyn summarizes this point as follows: In the Marxist understanding, human rights and freedoms (as a generalized category) constitute the social opportunities, inherent in the social and state system, for every member of the society to satisfy his requirements from the material benefits created in it, the benefits of culture, democracy, and in general all the achievements of civilisation. Legally postulated, these opportunities become the legal rights and freedoms of the citizens of a given country. But even without legal formalisation,

these social opportunities determine the actual status of man in society. It is only natural that in the capitalist countries, where the social and state system is based on private ownership of the means and instruments of production while the levers of control of the economy are in the hands of the monopolies, the best social opportunities are created primarily for the benefit of people belonging to the ruling classes.

The genuine rights and freedoms of the individual can be assured only through the revolutionary acquisition of political power by the working people under the leadership of the working class and its party, as a consequence of the elimination of the oppression of capital and exploitation of man by man, and the building of socialism. In the final analysis, the rights and freedoms of Soviet people are an embodiment of the revolutionary transformation of society and of the achievements of socialist construction as a whole.

Kuritsyn, V., "Human Rights in the Soviet Union," Socialism and Human Rights, pp. 30-1.

53. Shakhnazarov, p. 9.

54. On this score, Lenin wrote that "Only in Communist society, when the resistance of the capitalists has been completely broken, when the capitalists have disappeared, when there are no classes (i.e. there is no difference between the members of society in their relation to the social means of production), only then 'the state...ceases to exist' and it becomes possible to speak of freedom." Lenin, V.I., The State and Revolution (1917) in the Essentials of Lenin, Vol. II (London: Lawrence and Wishart, 1947), p. 201.

55. According to one Soviet publication, "The chief expression and main guarantee of socialist democracy is state power. Throughout the whole history of the building of socialism and communism, when society is still divided into classes (and in the period of transition from capitalism to socialism there are still some remnants of the exploiting classes), when the communist formation emerges in a class-divided world and when the class struggle is dominant on the international scene, socialist democracy must inevitably assume the character of political power and take on the form of the state. That

is why right up to the creation of a complete communist society state power must remain the chief form of socialist democracy, its essential embodiment." Kerimov, D.A. (ed.), Soviet Democracy in the Period of Developed Socialism (Moscow: Progress Publishers, 1979), p. 78. See also, Kudriavtsev, V.N., "The Constitution of the State of the Entire People," Soviet Law and Government, Vol. 17, no. 1, pp. 3-17 from "Konstitutsiia obshchenarodnogo gosudarstva," Sovetskoe gosudarstvo i prava, No. 11 (November, 1977). For a publication that includes both the 1936 and 1977 constitutions with a brief section on comparative study, see Finer, S.F., Five Constitutions (New York: Penguin Books, 1979).

56. Kudriavtsev, V.N., "The Rights of Man and the Ideological Struggle," Soviet Law and Government, Vol. 13, no. 3 (1974-5), p. 95 from Sotsialisticheskaya zakonnost, No. 3 (1974).

57. Article 47 of the Soviet Constitution. Many Western legal theorists have difficulty with this notion. Representative of their perspective is Richard Dean who claims that persons should exercise freedoms whether or not they enhance Communist construction or strengthen governments or political systems. Dean, R.N., "Beyond Helsinki: The Soviet View of Human Rights in International Law," Virginia Journal of International Law, Vol. 21 (1980), p. 94. Kudriavtsev retorts by claiming that "Attempts are now being made to cast doubt on the very right of the Soviet people to defend our democratic principles, those political, socioeconomic and cultural gains won in the course of the development of socialism. This is done under the slogan of 'democracy without limits,' denial that citizens have duties, appeals for absolute freedom, and essentially for a petty bourgeois, anarchist definition of the relationship between the individual and society." Ibid, p. 93.

58. Krutogolov writes that, "the party of the working class--the Communist Party--which expresses the interests of the whole of the Soviet people remains the leading nucleus of state and social organizations, just as it was under the state of proletarian dictatorship." Krutogolov, p. 19.

59. Sovetskoe gosudarstvo i pravo (no author given), No. 11 (1978), pp. 63-7 in Current Digest of the Soviet Press, Vol. 31, no. 8 (21 March 1979), p. 15.

60. Western legal theorists such as Louis Henkin examine the Soviet legal system from this perspective. He claims that, "Rights that the individual enjoys in socialist society do not antecede the state. They are not entitlements based on natural law, original autonomy, or social contract. They are not rights against the state. They are rights and benefits conferred by the socialist state as aspects of life in a socialist society." Henkin, Louis, "Rights: Here and There," Columbia Law Review, Vol. 81 (1981), p. 1599.

61. Ginsburgs, George, The Citizenship Law of the U.S.S.R. (The Hague: Martinus Nijhoff Pub., 1983), p. 370.

62. An interesting discussion of this issue is presented in Arbatov, Georgi and Oltmans, Willem, The Soviet Viewpoint (New York: Dodd, Mead and Co., 1981), pp. 142-63. Arbatov indicates that these policies are due to deep-seated attitudes toward emigrants that probably will not change in the near future. This is due to the fact that the two largest waves of emigration from the Soviet Union, following the Revolution and after World War II, were composed of enemies of the Soviet nation. In this way "the word emigrant became almost synonymous to the word traitor." p. 146.

63. Articles 59 and 62 of the Soviet Constitution.

64. Shakhnazarov, p. 21.

65. Ibid, p. 22. For other examples, see an essay by L. Zavadskaja which discusses a measure adopted by the Supreme Court of the USSR on 3 February 1978 entitled "Decision of the Constitution of the USSR and the Tasks of Further Improving Law Practice." She states that the "Decision indicated the tasks of the courts of law to translate into reality citizens' constitutional rights and freedoms, and protect their interests." While Zavadskaja discusses the role of the state bodies in protecting rights, she never recognizes that citizens have private liberties which may not conform with the objectives of the Committees of People's Control or other similar bodies. According to S. Zivs, the "development of the political system of the Soviet Union has brought about new categories, new processes, new situations, new social relationships that cannot be confined to the Procrustean bed of traditional Western political science, the basic premises of which are tension, contradiction, and antagonism between the individual and society, between the individual

and government. A new interrelationship replaces those tensions when the individual is incorporated (one might say 'interwoven') into the social organism as part of its living tissue. This 'incorporation' of the individual is a typical manifestation of socialist democracy."

Chernenko makes the point that "the Constitution of the USSR ensures the protection of the privacy of citizens" but only so long as they do not engage in "a socially dangerous act..." [a phrase that is too ambiguous to define]. Zavadskaia, L.N., "Protection of the Rights of the Individual in the USSR (A Review of Recent Legislation)," Human Rights Yearbook, USSR Academy of Sciences, Institute of State and Law (Moscow: Nauka, 1983), pp. 107-112. Zivs, S., Human Rights: Continuing the Discussion, Translated by Dudley Hagen and Dmitri Belizvski (Moscow: Progress Publishers, 1980), p. 24. Chernenko, K.U., The CPSU, Society, Human Rights, (Moscow: Progress Publishers, 1980), pp. 89-90.

66. Public discipline is "the cement without which society is threatened with collapse, anarchy, chaos." Personal freedom is "the source of creative initiative without which society is doomed to mediocrity, stagnation, decay." Ibid, pp. 22-3.

67. Ibid, p. 23.

68. Ibid. In fact, on this issue, Lenin stated that, "[I]n capitalist society, we have a democracy that is curtailed, wretched, false; a democracy only for the rich, for the minority. The dictatorship of the proletariat, the period of transition to Communism, will, for the first time produce democracy for the people for the majority, in addition to the necessary suppression of the minority--the exploiters. Communism alone is capable of giving a really complete democracy, and the more complete it is the more quickly will it become unnecessary and wither away of itself."

69. Pravda, 20 February 1976, pp. 3-5 in Current Digest of the Soviet Press, Vol. 27, no. 7 (16 March 1976), pp. 1-6.

70. Ibid, p. 5.

71. Kadarkay, Arpad, Human Rights in American and Russian Political Thought (Washington: University Press of America, 1982), p. 164.

72. Zivs, p. 34. Also, Movchan, p. 75.

73. According to I. Aleksandrov, "The conception of human rights engendered by socialist democracy is not only being realized in the Soviet Union and the other socialist states, it is also winning wider and wider international recognition. The international covenants on human rights that have been approved by the U.N. General Assembly are but one example." Ibid, note 69. Tunkin states that "It is sufficient to point out that if the provisions of the Covenant on Civil and Political Rights basically reflect similar legislative norms of capitalist and [emphasis added] socialist states, the provisions of the Covenant on Social, Economic and Cultural Rights reflect norms of Soviet legislation concerning the right to work, the right to social security, the right to education, and so forth." Tunkin, Theory of International Law, p. 79. See also, Mironov, N.V., Sovetskoe zakonodatel'stvo: mezhdunarodnoe pravo (Moscow: Mezhdunarodnye otnosheniia, 1968), pp. 119-33.

74. Kadarkay, pp. 169-70.

75. Mitin considers this broader codification of human rights to be a Soviet achievement. He writes that, "In accordance with that principle [Principle Seven], the states participating in the conference assumed the obligation of observing not only civil and political but also socio-economic rights...The point is that the leading Western powers had previously refused to accept any obligations whatever with respect to granting social and economic rights to their citizens." Mitin, pp. 29-30.

76. Medvedev and Kulikov, pp. 77-83. Also Vitruk, N.V., "The Constitution of the U.S.S.R. and the Development of the Soviet Legislation on the Rights of the Individual" in U.S.S.R. Academy of Sciences, Institute of State and Law, Human Rights Yearbook, Issue I (Moscow: Nauka, 1983), pp. 86-98.

77. Kudriavtsev, "The Rights...", p. 90.

78. Here it is interesting to note Brezhnev's report during the drafting of the 1977 Constitution. He stated that: "We know, comrades, that some of the years following the adoption of the constitution now in force [1936] were darkened by unlawful repressions and violations of the principles of socialist democracy and Leninist norms of Party and state life. This was done in

defiance of the constitutional provisions. The Party strongly condemned such practices and they must never be repeated." Fundamental Law of the Socialist State of the Whole People (Moscow: Progress Publishers, 1978), p. 20.

79. One interpretation holds that problems of nationalism, specifically "controversy over the autonomy, power, and status of the Union Republics...", delayed the 1977 Constitution. Lapidus, Gail, "Social Trends" in Byrnes, Robert F., After Brezhnev: Sources of Soviet Conduct in the 1980s (London: Frances Pinter, 1983), p. 223.

80. Krutogolov, p. 32. See also, Pravda, 25 November 1980, p. 5 in Current Digest of the Soviet Press, Vol. 32, no. 47 (24 December 1980), pp. 19-20. Also, Malein, pp. 9-13.

81. Movchan, A., "Bor'ba SSSR za mezhdunarodnuiu zashchitu prav cheloveka," Mirovaia ekonomika i mezhdunarodnye otnosheniia, No. 1 (January, 1979), p. 6.

82. Kerimov, p. 194.

83. Patyulin, Valentin, "State and Individual: Constitutional Principles of Relationship," Socialism and Human Rights, p. 67. He adds to the list of new duties: concern with the upbringing of children and the corresponding obligation of children to support their parents (Article 66); the duty to protect nature and conserve its riches (Article 67); responsibility for protecting historical monuments and other cultural artifacts (Article 68); the duty of all citizens to respect the national dignity and ethnicity of other citizens (Article 64); and finally the duty of promoting international friendship and world peace (Article 69), p. 67.

84. Feldbrugge, F.J.M., "The Soviet Human Rights Doctrine in the Crossfire Between Dissidents at Home and Critics Abroad," Vanderbilt Journal of Transnational Law, Vol. 13 (Spring/Summer, 1980), p. 462.

85. Unger, Aryeg L., Constitutional Development in the U.S.S.R., (London: Methuen and Co., Ltd., 1981), p. 193.

86. Ibid.

87. According to Western legal theorists such as Henkin, "intervention means dictatorial interference by force or threat of force." That which is encompassed by international law is not a purely domestic matter and any action short of force may be bad manners, but it is not impermissible. Henkin, Louis, "Human Rights and Domestic Jurisdiction," in Buerghenthal, pp. 21-3.

88. Tunkin, Theory of International Law, p. 83.

89. See, The Times, 14 May 1976, p. 7; 17 May 1976, p. 7.

90. Lefever, Ernest W., "Human Rights and United States Foreign Policy," in Levine, Herbert M. (ed.), World Politics Debated: A Reader in Contemporary Issues (New York: McGraw-Hill, 1983), pp. 176-81. Lefever writes, "Our [the US] President and all other heads of state have authority to act only in their own states, within the territory of their legal jurisdiction." (p. 179). See also Miller, Lynn H., Global Order: Values and Power in International Politics (London: Westview Pres, 1985). Miller emphasizes that the present inclination of governments to rely on non-interference clauses can be traced to statist theories established as long ago as in the Treaty of Westphalia which followed the end of the Thirty Years War (1648), pp. 18-26.

91. Humphrey, John, "The International Law of Human Rights in the Middle Twentieth Century," The Present State of International Law and Other Essays, International Law Association (Netherlands: Kluwer Academic Publishers, 1973), pp. 75-105. Also, Beres, Louis R., Reason and Realpolitik: U.S. Foreign Policy and World Order (Toronto: Lexington Books, 1984), pp. 84-9.

92. Tunkin, Theory of International Law, p. 82.

93. Academy of Sciences of the U.S.S.R., Institute of State and Law, International Law: A Textbook for Use in Law Schools (Moscow: Foreign Languages Publishing House, 1957), p. 144.

94. Ibid.

95. Ignatenko, pp. 96-7.

96. Sheetikov, A.P. (ed.), European Security and Co-operation: Premises, Problems, Prospects (Moscow: Progress Publishers, 1976), p. 273.

97. Zivs, p. 161.

98. Movchan, pp. 32-3. Also, Kudriavtsev, V. "The Rights..." p. 94. Also, Kartashkin, V. "The Soviet Constitution and Human Rights." International Affairs, Vol. 2 (February 1978), p. 19. Also, Zivs, pp. 59-66.

99. See, Dzyuba, Ivan, Internationalism or Russification? (London: Weidenfeld and Nicholson, 1968), pp. 166-70. Also, Seitmuratova, "O goneniakh na Kremsskikh Tatar v SSSR," Fifth International Sakharov Hearing, 10-11 April 1985, The London Press Centre, London.

100. Kudriavstev, "The Rights...", p. 94. Zivs, pp. 92-3.

101. Morris, George, Where Human Rights Are Real (Moscow: Progress Publishers, 1980), p. 166. Also, Kuzmin, E., "The Degradation of Bourgeois Democracy," International Affairs, Vol. 9 (Moscow: Znanie, 1976), pp. 100-9.

102. Tunkin, Theory of International Law, p. 73.

103. Molchanov, Y., "Peaceful Coexistence and Social Progress," International Affairs, Vol. 12 (Moscow: Znanie, 1976), p. 6.

104. Pravda, 28 June 1972, p. 1.

105. Zivs, p. 14.

106. Article 30 of the Soviet Constitution

107. Chkhikvadze, V.M., The State, Democracy and Legality in the U.S.S.R.: Lenin's Ideas Today (Moscow: Progress Publishers, 1972), p. 227.

108. Tunkin, Theory of International Law, p. 62.

109. Ibid, p. 435.

110. Article 8 of the Warsaw Pact.

CHAPTER 4

THE HELSINKI MONITORING GROUPS IN THE HUMAN RIGHTS
DEBATE BETWEEN THE SOVIET UNION AND THE UNITED STATES

The completion of the Helsinki Final Act of the Conference on Security and Cooperation in Europe, on 1 August 1975, was a major achievement for Soviet foreign policy, at least in the eyes of the Soviet leadership. Yet, by the time of the 1977 Belgrade meeting to review implementation of the Final Act, Soviet sentiment had changed dramatically. This reversal was due to domestic as well as international events. While the Soviet leadership tried to emphasize the permanence of post-World War II geographic boundaries in Europe, allegedly guaranteed in the Final Act's Declaration of Principles, a majority of Western nations deflected importance from this.¹ Instead, political leaders in the West stressed the significance of the humanitarian provisions of the Final Act and criticized the Soviet Union, and other East European countries, for failing to respect this section of the agreement. Many representatives of the Western nations, including the United States, interpreted the Final Act as a culmination of compromises. If the Soviet Union wanted the CSCE signatories to accept the Soviet

line on the boundaries question, then the Soviet leadership would have to reconsider its interpretation of the humanitarian provisions.

As if the international debate over the content of the Final Act was not troubling enough, the Soviet leadership was petitioned by groups of Soviet citizens whose interpretation of the Final Act was more aligned with the Western view. They insisted on official recognition of the humanitarian provisions and threatened to appeal to the international community to initiate political and economic strategies to force their government into line.

This chapter discusses the aims, functions and international nature of the Obshchestvennaia gruppа sodeistviia, translated literally as "The Public Group for Assistance," (hereafter referred to as OGS). From 1976, a number of groups were formed, referred to in Western literature as the "Helsinki Monitoring Groups." Regardless of the official Soviet interpretation of the Final Act, the OGS presented an unofficial interpretation which was more consistent with Western views. Members of the OGS claimed that their legitimacy derived from the "spirit" of the Final Act. In their perception, the KGB clampdown on their activities portrayed the Soviet leadership as hypocritical and not trustworthy in international

relations. Nevertheless, the Soviet leadership decided to suffer the propaganda attack, and the damage to an already strained detente, in order to quash the Helsinki movement for human rights in the Soviet Union.

FORMATION AND GENERAL AIMS OF THE HELSINKI MONITORING GROUPS

Eight months after publication of the full text of the Final Act in Pravda (2 August 1975), a group of eleven human rights' activists announced that they intended to monitor Soviet compliance with the agreement. Their first document, released in Moscow on 12 May 1976, named the founding members: Yuri Orlov (chairman), Ludmilla Alexeeva, Mikhail Bernshtam, Elena Bonner, Aleksander Ginsburg, Peter Grigorenko, Alexander Korchak, Malva Landa, Anatoly Marchenko, Vitali Rubin and Anatoly Shcharansky.² As the founding members throughout 1977 and 1978 were arrested and imprisoned or else emigrated, new members filled the vacancies.³ Following the initiative of the Moscow OGS, citizens in four other republics within the Soviet Union formed their own independent monitoring bodies. The first announcement was issued from the Ukraine, then Lithuania, Georgia and Armenia.⁴

One of the most striking characteristics of the Helsinki Monitoring Groups was the diversity of their membership. For example, Yuri Orlov is a physicist, Petr Grigorenko a former Red Army major-general, Aleksandr Korchak a "refusenik" and professor of astrophysics (all from the Russian republic), Oleksa Tykhy a lawyer, Nine Strokata a microbiologist (both from Ukraine), Rev. Karolis Garuckas (Lithuania) a Jesuit priest and Zviad Gamsakhurdia (Georgia) is a journalist. And the membership was not confined to the technical and liberal arts intelligensia. After 1976, increasing numbers of white-collar and blue-collar workers participated in the work of the groups. Even though the OGS members have come from varied backgrounds with rather individual concerns, they have given unanimous support to the five general aims outlined in the Moscow OGS's 12 May document. Let us then turn to an examination of these aims.

First, the OGS sought to assist in the observance of the humanitarian provisions of the Final Act in the Soviet Union. By using the term "assist," the groups stressed their desire to help the Soviet government to implement Basket III and Principal Seven, rather than to work against the Soviet authorities. The first document explicitly stated:

The aim of the group is to promote observance of the humanitarian provisions of the Final Act of the Conference on Cooperation and Security in Europe.⁵

In testimony before the US Commission on Security and Cooperation in Europe, Ludmilla Alekseeva, a founding member of the Moscow OGS stated:

Human rights activists are persons with differing political views, ranging from socialists to monarchists, but they all share the belief that society can only develop through the effective exercise of elementary human and civil rights. They all renounce violent methods of struggle as a matter of principle, and they condemn such methods....[Our] name was chosen to underline our members' loyalty to the government and the members' desire to work together with the authorities toward conscientious fulfillment of the human rights obligations undertaken at Helsinki.⁶

But the very fact that the members of the OGS saw the need to assist the government in implementation suggested that Soviet officials were not fulfilling their obligations, either deliberately or due to incompetence. Predictably, the official response to the OGS's gesture was that implementation rests solely with the Soviet government and assistance was not needed. This applied to all the concerns of the OGS including, contacts between people, freer flow of information, cooperation and exchanges in the area of culture, and cooperation and exchanges in the area of education.

Since many nations had signed the Final Act, the OGS declared as a second aim, that it would inform all the heads of state of the nations participating in the CSCE, and the general public, of violations of the provisions outlined above.⁷ Unfortunately, the Soviet authorities viewed such activities as slanderous and anti-Soviet, which effectively undermined the OGS's attempt to "assist" the Soviet government in protecting human rights.

Third, the OGS called for the creation of an international commission to investigate special cases of inhumanity. Such a commission could investigate severe violations on the spot, especially when the groups were unable to carry out investigations themselves.⁸ Especially severe examples of human rights violations were divided into four categories: taking children away from religious parents who educated them in their religious faith; forcible psychiatric treatment with the objective of changing thoughts, conscience, religion or belief; intentional division of families; and special inhumanity to prisoners of conscience, such as the use of psychiatry against them.⁹ Information gathered from investigations of these violations would provide the basis for criticism at the biennial follow-up conferences of the CSCE. By the time the first follow-up conference took place in

Belgrade, the Moscow OGS had prepared 26 documents for this purpose.¹⁰

The fourth aim of the groups was to encourage other citizens to create similar monitoring bodies to urge their own governments to implement the Final Act.¹¹ Human rights groups were subsequently created in Poland in 1976 (the Workers Defense Committee--KOR--specifically offered support to the OGS), in Czechoslovakia in 1977 through Charter 77, in Romania through the Paul Goma movement which openly supported the principles of Charter 77, and in Bulgaria through Declaration 1978 (the first clear example of dissent over human rights in that country). By the beginning of 1978, at least two unofficial groups had been established in the United States: the Helsinki Watch Group and the Helsinki Guarantees for Ukraine committee.¹² The fact that these groups were formed due to the call of the Soviet Helsinki Monitors, and the interest they had generated in the Final Act, was not widely recognized in the United States. Indeed, the chairman of the US Helsinki Watch Group, Robert L. Bernstein, wrote a letter to The New York Times which represented his frustration about the misunderstandings of the Group's aims (an earlier report in the same newspaper had stated that the Helsinki Watch Group would monitor only the US record in

adhering to the Final Act¹³). Thus, he summarized the objectives of, and the influences on the Group as follows:

The purpose of our committee, incompletely reported...is to document and publicize violations in all countries that signed the Helsinki accords [including the US and] we will pay particular attention to East European countries where independent civil rights groups are suppressed and remedies are seldom available. In fact, the formation of our committee is a direct response to the appeal of the Moscow Helsinki Watch urging creation of such groups in other countries [emphasis added].¹⁴

While Bernstein stressed that the group would also monitor the human rights record of the US government, it was obvious that the greatest emphasis would be on the Soviet Union in preparation for the follow-up conference in Madrid in 1980.¹⁵

The final aim of the OGS was to convince governments and the general public of the link between humanitarianism and the free flow of information on the one hand and the problems of international security and cooperation on the other. This connection was outlined by Professor Yuri Orlov in his appeal to the CSCE participants to protect the Moscow OGS:

The non-violent struggle for respect for the fundamental rights of the individual, for more humane practices and against cruelty, for tolerance and for the free circulation of information offers a more sure and lasting basis for confidence and peace than can be achieved by political efforts alone. The problems of security in today's world are inseparable from humanitarian problems. This is the evident

rationale for the humanitarian provisions of the Final Act. And this is why all peoples and all governments have an interest in their fulfillment.¹⁶

In summary, the general aim of the OGS was "to collect, analyze and transmit to the participating states information on violations of the humanitarian provisions of the Final Act."¹⁷ Such information could be utilized by an international commission designed to investigate the most serious violations. The OGS encouraged the creation of more groups in the Soviet Union and in all the countries whose representatives signed the Final Act.¹⁸ And finally, the OGS sought to establish the inseparability of respect for human rights and the broader concern for international security.

What were the main characteristics of the members of the OGS and their specific goals? In his attempt to present a working definition of dissent, Roy Medvedev labels a dissident as:

someone who disagrees in some measure with the ideological, political, economic, or moral foundation that every society rests on [and] openly proclaims his dissent and demonstrates it in one way or another to his compatriots and the state.¹⁹

This definition is useful because it expresses the unlimited range of action which officials in government could regard as dissent.

Dissidents in the Soviet Union are referred to as inakomyslyashchie or, "those who think differently." To state views at variance with official Stalinist ideology before 1953 meant certain arrest and imprisonment, but this was not necessarily so after Khrushchev's "secret speech" to the 20th party Congress in 1956 which denounced Stalin's abuses of power. Khrushchev's open condemnation at the 22nd Party Congress in 1961 made an even stronger plea for de-Stalinization. Throughout the 1960's, dissidents wrote about the inadequacies of the Soviet system in an unprecedented atmosphere of leniency. This "thaw" in the domestic climate was well under way by 20 November 1962 when Alexander Solzhenitsyn's, One Day in the Life of Ivan Denisovich appeared in the Soviet literary journal, Novy Mir.²⁰ Other prominent dissidents such as Andrei Sakharov and Roy Medvedev also expressed alternative views to the long-established Party line, although their works appeared later in the 1960's when the trials of two well-known literary figures, Andrei Sinyavsky and Yuli Daniel, signaled the end of the "thaw." Thus, Sakharov and Medvedev had their works smuggled to the West for publication.²¹

Perhaps the most outstanding feature of this period of dissent was the variety of writings calling for broader civil rights for all Soviet citizens and redress of

transgressions by the Soviet government against specific national, ethnic and religious groups.²² The first journal to reprint the literature from many of these groups, entitled A Chronicle of Current Events, appeared in April 1968. In a 1972 landmark publication, Uncensored Russia, Peter Reddaway translated the first ten editions of the journal which made the dissident writings accessible to a much larger Western audience.²³ The OGS have carried on the tradition of diversity in their specific human rights concerns which were represented in the Chronicle.

The Ukrainian OGS for instance, emphasized that the Ukraine was a sovereign European nation, a member of the United Nations and entitled to its own representation through a separate delegation at all international conferences concerned with the implementation of the Helsinki Final Act. The Ukrainian OGS also pointed to the absence of foreign press correspondents in the Ukraine and the especially severe curtailment of the free flow of information.²⁴ All of the OGS groups, although the Moscow group to a lesser degree, found it difficult to solve this problem, since most foreign press and government representatives were centred exclusively in Moscow. The fact that most OGS documents had to go to Moscow in order to reach

the West, was a unifying force between the Moscow OGS and similar bodies in the republics.

While the Ukrainian OGS presented a particularly nationalistic tone, the Lithuanian OGS combined nationalistic sentiment with an especially strong identification with the Lithuanian Roman Catholic Church. Over 90 per cent of the population of Lithuania is Roman Catholic and most samizdat from Lithuania since 1970 has centred on "state interference with the Lithuanian Catholic Church and the persecution of priests, laymen, parents and even children who openly practise their faith."²⁵ Continual religious persecution in Lithuania was alleged in the first two documents of the Lithuanian OGS and regularly thereafter.²⁶

Georgian dissent has been heavily nationalistic in tone since the mid 1950's and this is reflected in the Georgian OGS. The original leader of this group, Zviad Gamsakhurdia, issued statements protesting governmental interference in the Georgian Orthodox Church and systematic efforts, on the part of the predominantly Russian leadership, to destroy Georgian culture and language.²⁷ In one specific article, Gamsakhurdia documented a number of protests and arrests which took place in Tbilisi in 1976. He concluded his essay by stating:

It is possible to surmise that while the Kremlin and Shevardnadze are not stopping Draconian measures against 'economical crimes' [allegedly, the political protests resulted in physical damages ranging from 200 to 50,000 rubles] and while they are continuing political Russification, unrest and demonstration will continue.²⁸

Gamsakhurdia's comments were directed to Eduard Shevardnadze, the First Secretary of the Central Committee of the Communist Party of Georgia from 1972-85. Shevardnadze was to become a full member of the Politburo and USSR Minister of Foreign Affairs in July 1985. His intransigence towards Georgian dissidents may have accelerated his political career. Gamsakhurdia was one of the first OGS members arrested outside of the Russian republic.²⁹

The Armenian OGS stated in its first document that it wished Armenia to become a member of the United Nations, that a portion of territory, Nagorno-Karabakh, now part of the republic of Azerbaidzhan, should be returned to Armenia (referring to the Final Act's provisions for equal rights and self-determination of people, Principle VIII), and that discrimination against the Armenian language in state, economic and cultural affairs should cease.³⁰ Furthermore, the Armenian OGS proposed the creation of a new Armenian constitution more in line with the Universal Declaration of Human Rights (reaffirmed in the Final Act).

Various specific concerns among the OGS groups were inevitable given the variety of dissent in the Soviet Union since 1965. The wide range of topics presented in the longest running samizdat journal, The Chronicle of Current Events (1968-present), is represented in OGS samizdat as well. Nevertheless, the human rights provisions in the Final Act have acted as a unique assembly point for all human rights advocates and became a unifying force. The following section describes the development of this unprecedented alliance using the Final Act as the focal point.

THE OGS AND THE CONSOLIDATION OF HUMAN RIGHTS ACTIVITY IN THE USSR

In order to assist in Soviet implementation of the Final Act, the Moscow OGS began to collect and distribute information on intentional or unintentional violations of the human rights provisions. The eleven members of the group established a system to catalogue complaints from Soviet citizens and to investigate their authenticity. This section outlines what is known of the communication network between the various groups and individuals involved in unofficial monitoring activities. Due primarily to its access to the international media, the

Moscow OGS has served as the centre of the network and, for that reason, this discussion focuses on this particular group.

The Moscow OGS based its documents upon both written and oral statements from Soviet citizens, even though its founding document called for written statements only.³¹ On occasion, the Moscow OGS received telephone calls from various areas of the Soviet Union from persons complaining of socio-economic or civil-political human rights violations. The complaints ranged from frustration over rejected emigration requests to psychiatric imprisonment for nonconformist political beliefs. Sometimes complaints were delivered in person by individuals eventually labelled "messengers," who travelled long distances from their respective communities. Some "messengers" represented groups, such as the Pentecostals (numbering over 500,000) while others represented nations such as the Crimean Tatars and Meshki.³²

While reports from individuals and groups provided the foundation for investigations of alleged violations, copies of official documents dealing with a particular violation established the validity of claims. For example, Document Number Five of the Moscow OGS, dated 17 June 1976, presented copies of official documents in an effort to substantiate repression against religious

families.³³ This document illustrated a conflict in Soviet law between the socialist upbringing of children and the rights to profess and practise any religion or none at all (between Article 66 and Article 52 of the 1977 Fundamental Law of the Soviet Union).

Another even more convincing case involved the forced separation of an adventist, Maria Vlasjuk, from her two children. Official documents from the Khmel'nitskaia oblast court collegium for civil matters and from the Starosiniavski Regional People's Court (Ukraine), helped to legitimize the claim that the Vlasjuk family had been forcibly separated in violation of the Helsinki provisions.

When government documents were unpublished or "secret," the OGS groups attempted to substantiate their existence. Exposure of secret laws would invalidate the official Soviet claim that the rights of citizens are guaranteed by the Soviet Constitution and Criminal Codes of the various republics because the rights of citizens could be revoked or seriously breached by such secret laws. Moscow OGS Document Number Six outlined the use of secret laws to restrict residence permits available to former political prisoners.³⁴ In this case, a USSR Council of Ministers resolution of 28 August 1974 stated that individuals released from imprisonment were permitted

to "return to the dwelling space occupied by members of their family or relatives with whom they have been living up to the time of their conviction."³⁵ But according to the Moscow OGS, an unpublished section of the resolution stated, "persons who have served their sentence in the form of imprisonment and exile for especially dangerous state crimes [and for] the spreading of deliberately false fabrications damaging to the state and social system" are subject to residence restrictions.³⁶ In this way, the printed version of the resolution was misleading, if not deliberately deceptive.

In some cases, the Moscow OGS saw special need for personal investigation of alleged violations. For example, the Moscow OGS received information pointing to widespread religious persecution against Lithuanian Catholics. In order to confirm these allegations, Moscow OGS member, Ludmilla Alexeeva, travelled to Lithuania. Her trip resulted in Moscow OGS Document Number Fifteen, and the Lithuanian OGS wrote its first document with the Moscow Group's assistance. This first document described the internal exile of two Lithuanian Catholic Bishops, Julionas Steponavicius and Vincentas Sladkevicius and claimed that the arrests of these men violated principles Three and Eight of Basket I of the Final Act.³⁷

Once information had been collected, evaluated and a descriptive document completed, monitoring groups typed 35 copies since no other copying methods were available. They then sent them by registered mail to the embassies of the CSCE participants located in Moscow. One copy would also be sent to the office of General Secretary Brezhnev. The Moscow OGS sent its first six documents in this way and only the letters addressed to Brezhnev reached their intended destination; the other 240 letters disappeared. Because of this experience, the Moscow OGS began to send out its material through contacts with foreign ambassadors of CSCE states and through Western news correspondents in Moscow.³⁸

From this brief examination of the way in which the Moscow OGS collected and distributed information about alleged human rights abuse, it is possible to establish the nature of some of the internal links between the OGS groups in various republics and between a wide range of other human rights dissenters. Even though various groups and individuals adopted specific concerns, the general appeal of the Helsinki provisions acted as a unifying force. For this reason, the OGS documents were the most significant development in Soviet dissident samizdat materials since the launching of the Chronicle of Current Events. As will be seen in the following section, the

Final Act became a source of unity between dissidents in the Soviet Union and human rights advocates in the West as well.

INTERNATIONAL SUPPORT FOR THE
HELSINKI MONITORING GROUPS (OGS)

International support for the OGS became a troubling phenomenon for the Soviet leadership. Since the groups offered an unofficial interpretation of the contents of the Final Act, and an independent assessment of Soviet compliance, they generated much interest among the CSCE signatories and their citizens. In the United States concern was expressed through the Commission of Security and Cooperation in Europe, which was created by a congressional bill in June 1976, and through the unofficial Helsinki Watch Group, established in 1978. Perhaps the most important source of support for the OGS came from the President of the United States himself. The President submits a semi-annual report to the Committee on Security and Cooperation in Europe which still evaluates progress in implementation of the Final Act. President Ford wrote in his letter for the First Semi-annual Report that the Final Act "has committed the national leaders who signed it to standards of behavior which are compatible with

Western thoughts about the relationship of people to their governments." (emphasis added)³⁹ Thus, with regard to the Soviet Union, the semi-annual reports evaluated Soviet "progress" in adapting to the Western interpretation of the Final Act--specifically, to the human rights provisions. Most importantly, the OGS in the Soviet Union, and the monitoring organizations in the West, relied upon similar interpretations of human rights, interpretations which the Soviet leadership did not accept at the conference and has refused to recognize since the signing of the Final Act.

The OGS agreed with the Western interpretation of human rights, as stated in the Final Act, in three significant ways: first, it argued that recognition and implementation of international guarantees of human rights would enhance international security; second, the rights of the individual (political rights) were viewed as equally important as the rights of the collective (economic rights); and third, all nations were considered subject to the jurisdiction of international organizations who acted to monitor the compliance of individual nations who had signed human rights treaties and agreements. As will be seen, these three largely "Western" interpretations of human rights were contained in numerous OGS documents.

In its first document, the Moscow OGS stated that "the members of the Group to Assist proceed from the conviction that the issues of humanitarianism and free information have a direct relationship to the problem of international security...."⁴⁰ Similarly, the US State Department's third report evaluating progress in implementation of the Final Act, insisted that "any review of CSCE implementation cannot avoid discussion of action which--if left unquestioned--might threaten the credibility and integrity of the CSCE process itself."⁴¹ These views, which incorporate respect for human rights into the general pursuit of security in international relations, have remained consistent for both the OGS and for the American Commission on Security and Cooperation in Europe.

The Soviet view has also remained consistent. In contrast to the OGS, the Soviet leadership discounts the link between human rights and international security at least as it is made by the OGS. During the June 1979 Vienna summit to sign the Strategic Arms Limitation Treaty (SALT II), Brezhnev made it plain to Carter that "human rights is a sensitive subject for us and is not a legitimate ground for discussion between you and me."⁴² Soviet legal scholar, S. Zivs, defends the Soviet record on human rights, but does not concede to the link between human rights and international security. At best, he

argues that protection from nuclear holocaust is the ultimate human right.⁴³ In his perception, linkage between arms limitation or reduction talks and human rights issues, which was considered by the Carter administration, would simply cloud both topics such that the prospects for progress in either area would be lessened. Ultimately, international stability would decrease with the individual's primary right of survival threatened.

In order to counter Soviet reasoning, as represented by Zivs, the OGS and the CSCE Commission presented a convincing argument which centred on the actual provisions of the Final Act. For example, Principle Seven appears quite clear on the connection between human rights and international security:

The participating States recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States.

For this reason, the Soviet argument has been rejected by many of the Western and neutral states that signed the Final Act, especially those that fought for the human rights provisions during the CSCE negotiations (notably the neutral nations, Canada, France, the United Kingdom and United States). Even more significant is the fact

that since the OGS have sided with the Western view, they have received direct support from other CSCE signatories and their citizens.

The similarity between the Western view and the OGS view is presented in another East-West debate over the primacy of economic or social versus political or civil rights. Both categories of rights are desirable and complementary. Economic or social rights include the right to work, education, shelter, medical care and a reasonable standard of living; political or civil rights include freedom of speech, press, demonstration and legal representation to defend the rights of the individual or to receive a remedy in the case of a violation. The former have been the allegedly appealing features of socialist or communist systems, while the latter have been the proclaimed benefit of Western-type democracies. In fact, as was discussed in Chapter Three, this division of rights has been cemented in two separate United Nations covenants on human rights.⁴⁴

The OGS interpretation has been a combination of both categories of rights, with more emphasis on political rights than the Soviet leadership is willing to accept. The Moscow OGS writes:

We wish to draw attention to the fact that two years after the assumption of power of the Communist Party and 40 years after the publica-

tion of the present constitution [meaning the 1936 Constitution], citizens of the U.S.S.R. do not have a normal possibility for practising their 'rights and freedoms all of which derive from the inherent dignity of the human person.' (Final Act, 1a, VII) Freedom of speech, press, meetings, political gatherings, processions and demonstrations are formally secured in article 125 of the constitution of the U.S.S.R., which even requires that the government make available for this 'printing presses, paper supplies, public buildings, streets, means of communication, etc. Instead, over the last 60 years, it has become evident that these freedoms do not exist for those whose opinions differ from those of the government.⁴⁵

Emphasis on these political rights, which are described in the Final Act as inherent, corresponds to the Western concept of "natural rights," as expressed in the writings, of Locke, Jefferson and Lincoln and codified in the American Constitution's Bill of Rights. This clause was included in the Final Act at the behest of nations supporting the theory of natural rights.⁴⁶ While these rights are guaranteed in the Soviet Constitution, they have not played a large role in Russian or Soviet political culture or tradition. Furthermore, the Soviet government has been reluctant to implement them when they do not directly facilitate the building of communism. Ultimately, the decision about which actions or rights correspond to the construction of communism is left to the CPSU and not the international community.

Given the fact that the Soviet leadership rejects the OGS's link between international security and human rights and dismisses the especially important role of political rights, it should not be surprising that the Soviet leadership also rejects the jurisdiction of international human rights organizations to monitor and influence domestic human rights policy. While the Final Act has not created its own commission to monitor CSCE implementation, the signatories meet every two years to discuss implementation. Therefore, the OGS and the CSCE Commission in the United States are the only two "organizations" which continuously monitor CSCE compliance. Yet, official statements from the Soviet government have claimed that implementation of the Final Act is left to each participating state. According to Vladimir Gantman:

Attempts to misuse detente to interfere in the domestic affairs of states under the pretext of 'protecting human rights' is no small obstacle in the practice and conception of detente. 'The right' to such interference is drawn by some people from the Final Act of Helsinki, although this Act is not a document of international law, as everybody knows. Furthermore, it does not contain one word about the so-called 'right' to interfere. It does not contain one word which substantiates the conception of so-called 'common responsibility' by the signatories of the Final Act for all that happens within these countries, a conception which is used in this or that form in the scientific, political, and naturally propagandistic press of the West.⁴⁷

Thus, Soviet commentators have often rejected Western support for the Helsinki OGS as interference in Soviet internal affairs.

But the OGS continued to put forward a view in direct contradiction to official Soviet statements. Writing about the conditions of confinement of political prisoners, the Moscow OGS has claimed:

Inasmuch as the Group does not consider the use of torture and of cruel and inhuman treatment of political prisoners as a form of 'the exercise...by a participating state of rights inherent in its sovereignty'--Principle VI, Part A, Basket I--so it does not extend the clause on 'non-interference in the internal affairs' of the participating states of the Helsinki Accord--Principle VI, Part A, Basket I--to the torture and cruel and inhuman behavior caused by that sovereignty.⁴⁸

This interpretation was similar to one expressed by members of the American State Department, who claimed that "the Final Act has made human rights and observance of the commitments in it legitimate and recognized concerns of the international community."⁴⁹ Thus, the OGS agreed with the Western participants of the CSCE that Soviet reliance on the doctrine of non-interference was too narrow an interpretation of the Final Act.

Successive Soviet leaderships have attempted to fend off American criticism of Soviet human rights abuse through three assertions: the human rights attack threatens international security; American (and OGS)

emphasis on political rights discounts the superiority of economic rights; and the American interest in Soviet human rights abuse is motivated by the desire to interfere in the internal affairs of the Soviet Union.⁵⁰ But the OGS have complicated official Soviet strategy by insisting that the Soviet Union has not fulfilled its obligations undertaken in the Final Act. Faced with the prospect of joint international-domestic criticism of human rights abuse, the Soviet authorities decided early on to suppress the OGS. The following section describes the methods and effects of the crackdown on the groups.

OFFICIAL SOVIET REACTION TO THE HELSINKI MONITORING GROUPS

The founders of the Moscow OGS made their first announcement on 13 May 1976. Two days later, the chairman of the group, Professor Yuri Orlov, was detained by the KGB and warned that the group's activity was "unconstitutional" and that the members could face legal action if they continued to express their views. During the following months the OGS continued to function, forcing the Soviet leadership to arrest the members.

The scenario outlined above was precisely what Soviet leaders had hoped to avoid. It is clear that their

strategy was to de-emphasize the human rights provisions of the Final Act in the hope that they would be superceded by other areas of the document, especially the sections dealing with improved trade relations and reaffirmation of the territorial status quo in Europe. Faced with an unofficial group in the Soviet Union intent on monitoring Soviet compliance with the specific area of the agreement that they wished to forget, the Soviet leaders initiated a strategy to limit the damage to their image in the CSCE. This strategy consisted of threats and intimidation and if necessary, arrest and imprisonment.

Certainly, the OGS members were not surprised by the reactions of the Soviet authorities to the formation of their groups. Virtually all members were veteran dissidents. For example, the founding members of the Ukrainian OGS had spent a total of 60 years in prisons and must have been aware of the potential consequences of their activity. But this is not to say that the Soviet authorities felt that they could merely arrest the activists without condemnation from the other CSCE participants, especially since the human rights provisions were included as a trade-off for the sections that the Soviet representatives desired.

Soviet leaders attempted to justify the official crackdown on the OGS members in two ways. The first

method was based on exposing the members as anti-Soviet traitors who were linked with foreign, especially American, intelligence agencies. Apparently, the Soviet view was that a strong response would display the uselessness of a clandestine, as well as public, "psychological attack" in the name of human rights. A second approach was to take the offensive as the best defense, in other words, to attack the American treatment of human rights activists. One Soviet commentator centred his criticism on the American federal prison system. He concluded his remarks by stating:

The well-known contempt for democratic rights and liberties in the U.S. no longer requires further documentation. Over many decades bourgeois 'democracy' has developed numerous methods to combat malcontents and dissidents. But today the advances in drug therapy, psychosurgery and electronics have placed new weapons in the hands of the authorities.⁵¹

Also, during the Belgrade follow-up conference, Yuli Vorontsov, head of the Soviet delegation, read a letter from the American Reverend Ben Chavis, Jr. (one of the Wilmington 10) which stated that thousands of Americans are "thrown into jail" solely because they fight for their human rights.⁵² Once again, the overriding objective was to stifle the activity of the OGS and to prevent accusations that the Soviet Union was violating the Helsinki

Final Act by shifting attention to the American human rights record.

The Anti-Soviet Label

Since the brief flourishing of nonconformist writing in the Soviet Union in the mid-1960's and the sudden clampdown on such activity during the trials of Andrei Sinyavsky and Yuli Daniel in 1965, the use of anti-Soviet propaganda statutes against dissenters has not been uncommon. Moscow OGS members, Aleksander Ginzburg, Viktor Nekipelov, Yuri Orlov, and Tatyana Osipova were sentenced for this violation under Article 70 of the RSFSR Criminal Code.⁵³ Soviet state prosecutors have also used RSFSR Criminal Code Article 190-1 for "circulation of anti-Soviet fabrications," as in the case of Aleksander Podrabinek.⁵⁴ In reference to the OGS, the anti-Soviet label has been consistently applied and the sentences for conviction of anti-Soviet activity have been especially severe. The anti-Soviet label has been used by the Soviet authorities to accentuate foreign, in this case, American, subversive threats to the Soviet Union and to claim that the OGS members are agents of a bourgeois attack on Soviet socialism.

This perception of the members of the OGS represents a pivotal divergence of opinion between the Soviet leaders and human rights activists. While official Soviet commentators downplayed the relationship between detente and Soviet domestic affairs, many dissidents clearly did not. As Frederick Barghoorn has argued, human rights activists frequently contend that relaxation of tension abroad "logically connotes relaxation of controls at home."⁵⁵ Since the CSCE began during the high points of detente, in 1972, and since the Final Act includes human rights provisions to apply domestically, the OGS presented a convincing argument. But the Soviet authorities denounced this interpretation which "facilitates the 'penetration' of Soviet society by 'bourgeois' ideas and agents."⁵⁶ In order to substantiate their point, Soviet officials often make an example of a prominent human rights activist which warns others of the dangers of expressing their views, and demonstrates the futility of further activity. As will be presented in Chapter Six, the focus on prominent Soviet dissidents has not abated, but a more common approach in the 1980's has been to exile such persons to prevent them from serving as "leaders" of human rights dissent within the borders of the Soviet Union. In the case of the OGS, in 1978 it appeared that Professor Yuri Orlov was earmarked to be the example for

others. His case presented a clear example of the Soviet strategy to link the subversive activity of foreigners against the Soviet Union with dissidence.⁵⁷

Orlov was arrested in February 1977, held incommunicado for over fourteen months and sentenced in May 1978 to seven years in a strict regime labour camp followed by five years internal exile for anti-Soviet agitation and propaganda. During the fourteen months that Orlov was waiting to go to trial, the Soviet press uncovered an American intelligence operation linked with human rights activists. Allegedly, the CIA's attempt to collect information on Soviet defense matters was carried out through US Embassy staff and American journalists.

In fact, the CIA had recruited a dissident sometime in 1975. His name was Sanya L. Lipavsky, a neurosurgeon of Jewish descent.⁵⁸ Earlier, he had applied to emigrate. The recruitment of Lipavsky was considered an extraordinary achievement since the CIA had been trying, unsuccessfully, to recruit an agent within the Soviet Union who had access to valuable information on the Soviet military. Lipavsky claimed to have worked previously as a surgeon in Murmansk where he treated Soviet personnel stationed at the nuclear submarine base there. Lipavsky was then recruited by the CIA despite concerns that he may have been an agent provocateur. According to officials

from the CIA, this risk was worth taking, although they ignored the potential dangers they were creating for dissidents.⁵⁹ When Lipavsky revealed in March 1977 that he had been working for the KGB, the worst suspicions were confirmed.

Most certainly, Lipavsky had in fact been involved in the dissident movement. Soviet authorities have admitted that he did apply to emigrate and was a dissident.⁶⁰ Even more important was the fact that Lipavsky was associated with Moscow OGS members Yuri Orlov and Anatoly Shcharansky, and even lived with Shcharansky for a short length of time. Since Lipavsky had been involved in the dissident movement since 1972, he must have provided the KGB with invaluable information on the background of the OGS members, as well as information about their ongoing activities. In one of his articles for Izvestiia on 8 May, Lipavsky stated that:

After the European conference in Helsinki, the Western conspirators gave the signal to fabricate information on alleged violations of 'human rights' in the U.S.S.R. It was at their prompting that Yu. Orlov, with the help of V. Rubin, set up the so-called 'group to monitor the observance of the Helsinki agreements in the U.S.S.R.'⁶¹

He went on to claim that "although the U.S. government was interested in information on 'dissidents' in the U.S.S.R., its main task was collecting espionage information about

the U.S.S.R.'s defense capability."⁶² Therefore, by June 1977, it appeared that Professor Orlov could face charges of treason (Article 64 of the RSFSR Criminal Code) and possibly receive a death sentence. In May 1978, he was convicted of the lesser crime of anti-Soviet agitation and propaganda, but in July, Anatoly Shcharansky was convicted of high treason with a sentence of 13 years detention.⁶³ Eugene Goldman, chairman of the National Conference on Soviet Jewry reflected the concerns of American Jews about Shcharansky's fate when he stated:

The recent alleged confirmation of Lipavsky's link with the C.I.A. has in fact no direct connection with Anatoly Shcharansky. It now appears that Lipavsky volunteered his services for the C.I.A., lending credence to the suspicion that he did so as an agent of the Soviet secret police and for the purpose of implicating Soviet Jews actively engaged in the legal struggle to emigrate.⁶⁴

Nevertheless, Shcharansky's conviction was upheld and his opportunity for emigration did not materialize until 1986. The same was true for Orlov. Despite eventually permitting him to emigrate, the Soviet authorities engineered a scenario to justify their claim that both were traitors (see Chapter Six).

It is possible to draw one of two conclusions from the Lipavsky affair. Either the CIA made a terrible intelligence blunder which placed many OGS members in danger, or the KGB was able to plant agents within the

ranks of the dissidents who were especially successful in aiding the elimination of large sections of dissent.⁶⁵ In either case, the CIA practice of recruiting actual or "so-called" dissidents, provided the Soviet authorities with a legitimate reason to arrest OGS members. This is not to say that they would not have arrested the dissidents anyway, only that the CIA's involvement with dissidents further undermined attempts to improve Soviet adherence to the Final Act and merely assisted the Soviet authorities in using the anti-Soviet clauses.

The Soviet Human Rights Counter-Attack

While Soviet officials implicated OGS members in anti-Soviet activity, they re-emphasized the unique rights guaranteed under "developed socialism." By citing the provisions for citizens' rights in the 1977 Soviet Constitution, which includes the Final Act's Declaration of Principles, Soviet authors attempted to deflect the public outcry over the imprisonment of human rights activists in the Soviet Union. As an extension of this strategy, Soviet journalists launched their own attack against the American violation of human rights. Citing the persecution of J. Harris, B. Chavis and the "Wilmington 10," they have claimed that civil rights are

"violated shamelessly" in the US, which "makes graphically evident the demagogic nature of the attempts by some figures in that country to assume the role of devotees of human rights."⁶⁶

The specific rights which each ideological system emphasizes are discussed at greater length in Chapter Three, but it is sufficient to note here that this type of debate, if the Soviet leadership would allow more of it, is a healthy aspect of the Helsinki process. Furthermore, it means that such matters no longer fall into the exclusive category of domestic jurisdiction and are a legitimate concern of the CSCE participants and the international community. Unfortunately, the Soviet leadership has traditionally viewed this type of criticism as a one-way street, although more recent signs of a willingness to engage in broader debate are evident.

Twenty-seven months after the first announcement by an OGS group, no less than fifteen of its most prominent members had been imprisoned for anti-Soviet fabrications, agitation and propaganda. Even though this had been a common accusation against dissidents in the Soviet Union for a decade, the fate of the OGS members aroused special interest among the CSCE participating nations. As stated earlier, the OGS understanding of the Final Act's human rights provisions was more aligned with the "Western"

rather than the Soviet interpretation. For this reason, the arrest of the OGS members evoked criticism and sympathy from official and unofficial organizations in the West. The following section describes the wide range of support for the OGS members during the attack against them.

WESTERN RESPONSE TO THE ARRESTS OF OGS MEMBERS

In December 1976, the Ukrainian OGS issued an optimistic memorandum which emphasized the need for broad support for the OGS groups:

If world opinion does not lessen its moral support, if the Western news media focus more attention to the struggle for Human Rights in the U.S.S.R., then the coming decade will bring about great democratic change in our country.⁶⁷

Domestic changes of the type recommended by the OGS were not forthcoming (see the five objectives of the OGS outlined in Part I), but support from groups and individuals in the West was surprisingly vocal. For the purpose of this study, Western support for the OGS can be separated into two categories: statements from representatives of the United States government during the Carter administration and statements from other governments participating in the CSCE, as well as nongovernmental organizations. These statements combined to make the CSCE

less of a diplomatic victory for Soviet foreign policy strategists. Rather, the Soviet Union was put on the defensive against what Soviet leaders referred to as "psychological warfare."⁶⁸ In actuality, the international debate over the treatment dealt out to the OGS members was a logical outgrowth of the CSCE process and a vital component in the long term implementation of the agreement.

The Carter Administration and the OGS

President Jimmy Carter inherited the CSCE from the Nixon and Ford administrations. President Ford had actually signed the completed the Final Act on 1 August 1975. During the presidential campaign debates in October 1976, Carter criticized Ford for not upholding the Helsinki principles, especially the principles guaranteeing human rights. Carter then pledged to hold the Soviet government to the obligations it accepted in the Final Act.⁶⁹ The sincerity of Carter's commitment to human rights is still a matter of debate, but this author contends that Carter's concern was genuine. What is most important is that, in Soviet eyes at least, Carter appeared to isolate the Soviet Union for criticism and public embarrassment.⁷⁰ This was because Carter had

eliminated any possibility of pursuing "private diplomacy" with Soviet leaders over human rights dissidents, as it was used previously by Nixon and Kissinger.

Yet, if Carter was going to speak out about human rights violations of the Final Act in a much more public fashion, it was inevitable that he would arouse antagonism in US-Soviet relations for two reasons. First, of the 35 CSCE participants, the Soviet record on human rights was one which evoked the most criticism. Within the United Nations, the Soviet representatives have been protected by a human rights cushion since many members of the UN have had records of human rights abuse that are clearly worse than that of the Soviet Union (for example, Uganda, Kampuchea, Chile, Argentina and Iran). This cushion is not present in the CSCE.

Second, and most relevant for this study, is the fact that the OGS pushed the Carter administration toward a public clash with the Soviet leadership over violations of the Final Act at the same time as the new president was trying to fulfill his campaign pledges to defend human rights and dissociate himself from, what he considered to be, the apathy of the previous administration. In this way, the OGS was at the very foundation of his denunciation of Soviet actions.

The first signal that President Carter meant to implement his human rights diplomacy came in his response to a letter sent to the White House by the famous Soviet dissident Andrei Sakharov.⁷¹ One month later, in February 1977, Carter met with the exiled dissident Vladimir Bukovsky.⁷² The Carter administration went directly to the defense of the OGS members by denouncing the arrest of Moscow OGS members, Alexandr Ginzburg and Yuri Orlov.⁷³ There is strong evidence to indicate that the Carter administration felt pressured into making these responses and realized that an immediate assault on the Soviet human rights record could be counter-productive. Brezinski later wrote:

In spite of Carter's private efforts to reassure both Brezhnev and Dobrynin that he was not planning to use human rights primarily as an anti-Soviet weapon, the incident with the Sakharov letter had clearly touched a raw nerve. One has to concede that this event did not help the relationship between the new Administration and the Soviet Union.⁷⁴

Nevertheless, by the time of Shcharansky's conviction, Carter openly stated that he was "sobered by the reminder that, so late in the 20th century, a person can be sent to jail simply for asserting his basic human rights."⁷⁵ Secretary of State, Cyrus Vance, characterized the OGS members as "men and women of uncommon courage...tried for asserting fundamental human rights...guaranteed in

international agreements entered into by their governments."⁷⁶ Such comments affected other issues in Soviet-American relations, notably, the attempt to complete and receive Congressional ratification of the SALT II Treaty.⁷⁷

While the Carter administration acted as a defender for the OGS from 1977-81, it was unable to prevent the arrest and imprisonment of some OGS members, while obtaining permission for others to emigrate.⁷⁸ Thus, Carter's human rights policy was a combination of successes and failures for the OGS. The President was not willing to place the OGS at the centre of American-Soviet relations and to make most other issues secondary. Even if the President had made the OGS his priority, it cannot be determined with certainty that Soviet officials would have been more lenient toward the dissidents. And, after all, the OGS appealed to all CSCE signatories and the greatest potential for pressure on the Soviet government rested on a collective response rather than an individual American one.

Other CSCE States and the OGS

During the trials of OGS members, other governments of CSCE states protested about what they considered to be

clear violations of the Final Act. While accusations of human rights violations from the United States and Western democratic governments could be explained away as an ideological attack, criticism emanating from Western communist parties proved to be more troublesome. Members of the French Communist Party condemned the trials of Moscow OGS representatives Shcharansky and Ginzburg. They were among approximately 6,000 demonstrators who marched in Paris in a show of protest against the trials. The largest group in the procession, composed of leftists, trade union leaders and French Jews, was led by Natalya Shcharansky, wife of the accused. Ultimately, the French Communist Party called upon the Soviet authorities of "end all repression."⁷⁹

The British Communist party expressed concern over the Soviet law of slander against the state by sending members of its political committee to the Soviet embassy in London. In a statement they claimed that the law was "of such an all-embracing character that it open[ed] the way to prosecutions directed against people holding unpopular opinions."⁸⁰ From their perspective, disagreement was a matter for public debate rather than for legal action. Italian Communist Party Chief, Enrico Berlinguer similarly stated that, "Convictions for crimes of opinion cannot be tolerated."⁸¹

While all of these comments were critical of the trials in the Soviet Union, they were also aimed at factions within the respective West European communist parties that asserted their loyalty to the CPSU. During the summer of 1978, the loss of unity experienced by many parties was particularly evident in the French Communist Party. Georges Marchais, leader of the French communists and a lukewarm advocate of Eurocommunism, was criticized by a faction led by Jeannette Thorez-Vermeersch. Her husband had been General Secretary of the Party for over 30 years and had advocated more traditional communist tactics including abstention from alliances or compromises with non-communist parties in Western Europe.⁸² The fact that Thorez-Vermeersch attempted a revival of this policy must have been troubling to Marchais who in turn could have seized upon the Moscow OGS trials as evidence of the inadvisability of closer ties to the Soviet Union. Indeed, many communists in Western Europe sought to appeal to patriotism and the needs of the relatively well-to-do working classes in their own countries. They intended, at least in part, to provide an alternative to the Soviet or Chinese models of communism.

Perhaps the anxiety of Eurocommunists increased when, in April 1978, Viktor G. Afanasyev editor of Pravda, stated at a Madrid meeting of the Spanish Communist Party

that "Eurocommunism does not exist. Only scientific Marxism exists."⁸³ Since these comments were uttered only weeks before the dissident trials, the responses by Eurocommunists to the latter may have been heightened. Once again, it is also possible that their outward criticism was directed toward factions within their own parties.

While Western communist parties expressed their discontent, Western governments began to take actions ranging from verbal protest to trade sanctions.⁸⁴ In London a group of Members of Parliament nominated the OGS for the Nobel Peace Prize. Trials were also held in London for Yuri Orlov and Anatoly Shcharansky and both were acquitted for their alleged "crimes." British Foreign Minister, David Owen described the treatment of Orlov as "harsh and in my view unjustifiable."⁸⁵

A motion in the Israeli Knesset, supported by both the Begin government and opposition Labour Party leaders, expressed concern over the violation of laws of justice and humanity in the Soviet Union. It portrayed the Soviet response to Western concern as a violation of internal affairs as synonymous with the Nazi justification for persecution of the Jews.⁸⁶ The accumulation of such protests would, it was hoped, protect the OGS members from further harassment and arrest.

Finally, numerous non-governmental, allegedly non-political organizations, attempted to exert pressure on the Soviet government over the OGS members. In Eastern Europe, groups such as Charter 77 issued statements at great risk of arrest, while in the West, the American based Helsinki Watch and Helsinki Guarantees for the Ukraine committee translated OGS samizdat materials and issued their own protests to Soviet officials. In one of their first statements, the founders of the American Helsinki Watch attempted to influence the Soviet leaders through the following declaration:

Shortly after its signing four years ago the document [the Final Act] was reprinted in its entirety in Pravda. The Soviet Government is proud of this fact and has criticized the United States for not having publicized the accord widely among United States citizens. But the Soviet Government's treatment of its own Helsinki monitors is shameful....Soviet leaders should be told...that until the legitimate rights of the Helsinki monitors are restored, the fulfillment of another goal of the Helsinki accord--the granting of most-favored-nation [trade] status--is out of the question.⁸⁷

Such unofficial human rights organizations are significant in that they can tarnish the international reputation of the Soviet Union and, from the Soviet point of view, adversely affect the ongoing ideological struggle. But they also pressurized their own governmental representatives into insisting upon changes in Soviet attitudes. This is especially true in the United States as each CSCE

follow-up meeting nears.⁸⁸ If non-governmental organizations were able to function freely in the Soviet Union, as they are in the US, then the OGS would not have to appeal to organizations in the West and one cause of alleged interference in Soviet internal affairs would be eliminated. Indeed, the Final Act would be implemented more effectively under such conditions.⁸⁹

CONCLUSION

The optimism expressed by certain of the OGS members over the effects of Western public opinion on the Soviet leadership was premature. The statements of President Carter, other CSCE participating governments and non-governmental organizations usually evoked strong negative responses from the Soviet authorities. And pessimism on the American side was at times very noticeable. In a truly cynical article William Safire, columnist for The New York Times, called for the United States to rescind its signature on the Final Act. He continued:

What did we get for agreeing to negotiate the agreement the Soviets wanted so badly? Nothing. What did we get for our pains in writing in human-rights guarantees? A horse laugh from Moscow...a move to cancel our approval of the agreement that the Soviets have already broken would be legal, non-belligerent and cost-free. It would send a message to the Kremlin that their continued duplicity [especially in Africa] will make the 'final act' no act at all.⁹⁰

In response, Gennady Gerasimov, at that time a political observer for Novosti Press Agency, claimed that even if the United States renounced the Final Act, the other CSCE signatories would not. Thus, the United States would be pushed out of European affairs and relegated to the role of "revenge-seeker." He added:

I am constantly surprised at how Americans venture to judge the fulfillment of an agreement whose text is inaccessible to them [the Final Act was much more widely published in the Soviet Union than in the United States].⁹¹

Gerasimov's remarks were too harsh though, because Americans can locate a copy of the Final Act with little effort. Concerns in the United States are focused on the value of the document rather than on its availability.

It is difficult to determine if the OGS and their supporters in the West influenced the Soviet leaders to temper their response to dissidence in the Soviet Union. But given the combination of harsh sentences and permission to emigrate, it seems most likely that a definite pattern cannot be established. The fortunate OGS members were forced to emigrate rather than face imprisonment.

Even though the influence of Western governments and non-governmental organizations was probably minimal, it would be premature to discount their worth altogether. Chapter V will argue that the Carter administration did arouse more discussion of human rights, even though it did

not cause significant modifications in the Soviet interpretation of human rights.

This chapter has illustrated how any study of the CSCE and the human rights debate between the United States and the Soviet Union must pay attention to the unofficial Obshchestvennaia gruppy sodeistviia. As these groups began to publish samizdat for circulation in the Soviet Union and for distribution to the CSCE participants, it became apparent that their interpretation of the human rights provisions in the Final Act was closer to Western views than Eastern assessments. This was reflected in OGS attitudes toward the relationship between human rights and international security, in the special importance OGS accorded political rights, and in the OGS belief in the need for international investigative bodies to assess the performance of CSCE participants in implementing the human rights provisions of the Final Act.

Even though the groups were successful in enlisting support from Western governments and citizens, their efforts to hold the Soviet government to the OGS interpretation of the Final Act was largely unsuccessful. Nevertheless, the OGS carried on the human rights activism of the period 1965-1972, and did so with the support of an international agreement signed by the Soviet authorities and widely published in the Soviet Union. The official

crackdown on the OGS provided a dramatic propaganda defeat for the Soviet leadership and heightened awareness, both within and outside the Soviet Union, of the implications of the official Soviet human rights doctrine.

ENDNOTES CHAPTER 4

1. Three principles are especially relevant: Principle III, Inviolability of frontiers; Principle IV, Territorial integrity of States; Principle VIII, Equal rights and self-determination of peoples.
2. "Ob Obrazovanii Obshchestvennoi Gruppy Sodeistviia Vypolneniiu Khel'sinkskikh Soglashenii v SSSR," Arkhiiv Samizdata, Vol. 30, AS 2542, (Munich: Radio Free Europe-Radio Liberty, Inc.), pp. 3-5. See also, The Times, 14 May 1976, p. 7. Many of the conclusions in this chapter were influenced by interviews and discussions with Soviet dissidents in the West who attended the Fifth International Sakharov Hearing in London, 10-11 April 1985.
3. Persons who joined later included: Yuri Mnyukh, Naum Meiman, Vladimir Slepak, Sofia Kallistratova, Viktor Nekipelov, Tatiana Osipova and Sergei Polikanov.
4. "Declaration of the Ukrainian Public Group for Assistance in the Fulfillment of the Helsinki Accords," (9 November 1976), Arkhiiv Samizdata, Vol. 30, AS 2839 pp. 43-45; "Ob Obrazovanii Litovskoi Obshchestvennoi Gruppy Sodeistviia Vypolneniiu Khel'sinkskikh Soglashenii," (25 November 1976), Arkhiiv Samizdata, Vol. 30, AS 2841-a, pp. 65-66; "Deiatel'nost' Grupp 'Khel'sinki'," (January 1977), Arkhiiv Samizdata, Vol. 30, Kron. 44, p. 74; "Armianskaia Gruppya Sodeistviia Vypolneniiu Polozhenii Zakluchitel'nogo Akta Khel'sinskogo Soglasheniia," (1 April 1977), Arkhiiv Samizdata, Vol. 30, AS 3059, pp. 78-85.
5. Ibid, note 2, p. 3.
6. U.S. Congress, Commission on Security and Cooperation in Europe, Implementation of the Final Act of the Conference on Security and Cooperation in Europe: Findings and Recommendations Two Years After Helsinki, 95th Congress, 1st session, 23 September 1977 (Washington: U.S. Government Printing Office, 1977), pp. 22-3.
7. Ibid, note 2, p. 3.
8. Ironically, the Soviet delegation to the CSCE had proposed a permanent monitoring body, but withdrew their

proposal as it became apparent that human rights provisions were to be included.

9. Ibid, note 2, p. 4.

10. A broad cross-section of these documents includes: "O razdelennykh sem'iakh," Dokument no. 4 (17 June 1976), Arkhiv Samizdata, Vol. 30, AS 2604, pp. 268-71; "Ob uznikakh sovesti, nuzhdaiushchikhsia v srochnom osvobozhdenii po sostoianiiu zdorov'ia," Dokument no. 17 (14 January 1977), Ibid, AS 2850, pp. 392-6; "O polozenii meshkov," Dokument no. 18, (14 January 1977), Ibid, AS 2952, pp. 661-3; "Za tri mesiatza do Belgrada," (27 February 1977), Ibid, AS 2903, pp. 15-20; "Itogovi dokument gruppy sodeistviia vypolneniiu Khel'sinkskikh soglashenii k soveshchaniiu v Belgrade," (May 1977), Ibid, AS 2904, pp. 21-35.

11. Ibid, note 2, p. 4.

12. The Helsinki Watch Committee was organized by forty-six individuals from a wide range of professions. Initially, the group received a \$400,000 Ford Foundation grant to fund its first two years. It has since been based in New York. See, The New York Times, 25 February 1979, p. 3.

13. Ibid.

14. Ibid, 13 March 1979, p. 18. Here it should also be noted that the Helsinki Watch Group was created in part due to the urging of Arthur J. Goldberg, a former US Supreme Court Justice and head of the US delegation to the CSCE follow-up conference in Belgrade in 1977. These objectives were reiterated during discussions with Cathy Fitzpatrick, Secretary of Helsinki Watch, in April 1986.

15. See, Bernstein, Robert L. and Schell, Orville H., "Why Moscow Harries the Helsinki Monitors," in Ibid, 16 June 1979, p. 21.

16. Orlov, Yuri, "Obrashchenie: k Pravitel'stvam i parlamentam stran, pokpisavskikh Zakluchitel'nyi Akt Soveshchaniia po bezopasnosti i sodrudnichestvu v Evrope," (May 27, 1976), Arkhiv Samizdata, Vol. 30, AS 2617, p. 7.

17. Ibid, p. 6.

18. Ibid, note 2, p. 4. Ludmilla Alexeyeva has provided a clarification of this aim. She states, "The help of citizens of the West was from the very beginning based chiefly on professional solidarity--writers helped writers, scientists aided scientists, nationalist organizations abroad helped people of their nationality, religious organizations supported their fellow believers; Amnesty International was concerned about all prisoners of conscience." Alexeyeva, Ludmilla, Soviet Dissent: Contemporary Movements for National, Religious, and Human Rights (Middletown, Connecticut: Wesleyan University Press, 1985), p. 337.

19. Medvedev, Roy, On Soviet Dissent, (Interviews with Piero Ostellino) ed. by George Saunders (London: Constable and Company Ltd. 1980), p. 1.

20. Solzhenitsyn, Aleksander, One Day in the Life of Ivan Denisovich, (New York: Praeger, 1963) and The Cancer Ward (New York: Dial Press, 1968) and The First Circle (New York: Bantam, 1969). For Solzhenitsyn's own account of the events leading up to his first officially sanctioned publication, see his work, The Oak and the Calf: A Memoir (Bungay, Suffolk: Collins/Fontana, 1980).

21. Sakharov, Andrei, Progress, Coexistence and Intellectual Freedom (New York: Norton, 1968) and My Country and the World (New York: Knopf, 1976); Medvedev, Roy, Let History Judge: The Origin and Consequences of Stalinism (New York: Random House, 1973) and On Socialist Democracy (London: MacMillan, 1975). The official crackdown on dissident literary figures was documented in the samizdat journal A Chronicle of Current Events and portions are translated in Reddaway, Peter, Uncensored Russia (New York: American Heritage Press, 1972), pp. 61-183.

22. For writings calling for broader civil rights see, Reddaway, pp. 150-70; Plyushch, Leonid, "The Thermidorians Fear the Truth" [letter to the editor of Komsomol'skaia Pravda, 1968] in Saunders, George (ed.), Samizdat: Voices of the Soviet Opposition (New York: Monad Press, 1974), pp. 268-275; The Grigorenko Papers: Writings by General P.G. Grigorenko and Documents on His Case (Boulder, Colorado: Westview Press, 1976); A Chronicle of Current Events (hereafter cited as CCE), Issue no. 27 (15 October 1972), Amnesty International Publications (March 1973), pp. 290-7. Examples of Ukrainian nationalistic samizdat see, Reddaway, pp. 280-97; Chornovil, Vyacheslav,

The Chornovil Papers (London: McGraw-Hill, 1968 and CCE, Issue no. 26 (5 July 1972), Amnesty International Publications (October 1972), p. 243. In Estonia, a group of citizens were arrested in 1975 for disseminating an unofficial journal entitled The Light of Freedom, see, CCE, Issue no. (31 May 1975), Amnesty International Publications (1978), pp. 169-70. Two groups of dislocated peoples, the Crimean Tatars and the Meskhetians, received much attention in the early samizdat, see Reddaway, pp. 249-79. Samizdat works regarding persecution of a number of religious groups, including Russian Orthodox, Baptist and others, are also reprinted in Reddaway, pp. 319-333.

23. Reddaway, Ibid, note 21.

24. Ibid, note 4.

25. Arkhir Samizdata, Vol. 30, p. 63.

26. Ibid, AS 2841-b, pp. 67-70 and AS 2841-v.

27. For background information on Georgian dissent, including a description of the 9 March 1956 Tblisi student riots, see, Alexeyeva, Soviet Dissent pp. 106-112. For works involving Gamsakhurdia, see, "O presledovanii V. Rtskhiladze," (9 March 1977), Arkhir Samizdata, Vol. 30, AS 3116, pp. 75-6. Rtskhiladze, a former employee of the Georgian Ministry of Culture, was arrested for his writings concerning Islamic peoples known as the Meshki who were deported from their homeland during the Stalin era (see, "O polozhenii meskhov," 14 January 1977, Ibid, AS 2952, pp. 661-3). Also, "Zaiavlenie dlia pechatii," (23 April 1977), Ibid, AS 3003-k, pp. 551-2. This article concerns persecution against practicing Christians.

28. Gamsakhurdia, Zviad, "Antipravitel'stvennye protesty v Gruzii v 1976 godu," (17 September 1976), Ibid, AS 2869, pp. 647-50.

29. At his trial, Gamsakhurdia was actually accused of receiving subversive materials from Igor Belousovich, an American Embassy official. Ultimately, Gamsakhurdia publicly repented by admitting his "guilt" and he received a sentence of two years internal exile. See, The New York Times, 16 May 1978, p. 3.

30. Ibid, note 4.

31. This section relies heavily on material provided by former Moscow OGS member Ludmilla Alexeyeva to the US congressional Commission on Security and Cooperation in Europe. See, U.S. Congress, Commission on Security and Cooperation in Europe, A Thematic Survey of the Documents of the Moscow Helsinki Group, 97th Congress, 1st session, 12 May 1981 (Washington, D.C.).

32. These visits were the basis of Moscow OGS reports now stored in Arkhip Samizdata numbers AS 3014 (repression against Pentecostals and Baptists), AS 2830 and 3185 (repression against the Crimean Tatars) and AS 2952 (repression against the Meshki).

33. U.S. Congress, Commission on Security and Cooperation in Europe, Report of the Helsinki Accord Monitors in the Soviet Union: Documents of the Public Groups to Promote Observance of the Helsinki Agreements in the U.S.S.R., Volume I, 95th Congress, 1st session, 27 February 1977 (Washington, D.C., U.S. Government Printing Office, 1977), pp. 37-47. Also, Arkhip Samizdata, Vol. 30, AS 2618.

34. Ibid, pp. 21-6. Also, Arkhip Samizdata, Vol. 30, AS 2650.

35. Ibid, p. 22. See, Sotsialisticheskaya zakonnost', No. 12, 1974, p. 70.

36. Ibid.

37. "O polozhenii dvykh Litovskikh Katolicheskikh episkopov," Dokument no. 1, (25 November 1976), Arkhip Samizdata, AS 2841-b, pp. 67-9.

38. Ibid, note 31. Also Alexeyeva, Soviet Dissent, pp. 335-49.

39. Kavass, Igor and Granier, Jacqueline (ed.), Human Rights, the Helsinki Accords, and the United States: Selected Executive and Congressional Documents, Series II, book I: Semiannual Reports by the President to the U.S. Commission on Security and Cooperation in Europe, (1982), p. viii.

40. Ibid, Note 4. Also see, "From A. Sakharov," Reports of the Helsinki Accord Monitors in the Soviet Union: Documents of the Public Groups to Promote Observance of the Helsinki Agreements in the U.S.S.R.,

Volume II, Commission on Security and Cooperation in Europe. Washington, D.C., (3 June 1977), p. 21. Although the Soviet tendency has been to separate the question of human rights and international security since the CSCE, this was not generally the case before the CSCE.

Kudriavstev, V., Soviet Law and Government, Vol. 13, no. 3, 1974-5, states "the question of the rights of man and his social, economic, civil, and political status is indissolubly associated with the process of struggle for peace, security and the relaxation of international tension." p. 87.

41. Third Semiannual Report by the President to the Commission on Security and Cooperation in Europe, December 1977 in Kavass and Granier, Human Rights, the Helsinki Accords and the United States: Selected Congressional and Executive Documents, Series II, Book I: Semiannual Reports by the President to the U.S. Commission of Security and Cooperation in Europe, p. 6. For similar views see, Forsythe, David P., Human Rights and World Politics, (London: University of Nebraska Press, 1981), pp. 25-31 and Hoffman, Stanley, "The Hell of Good Intentions," Foreign Policy, Vol. 29 (Winter 1977-78), p. 5.

42. Carter, Jimmy, Keeping Faith: Memoirs of a President (New York: Bantam Books, 1982), p. 259.

43. Zivs, Samuil, Human Rights: Continuing the Discussion (Moscow: Progress Publishers, 1980), pp. 167-70.

44. This is not to argue that the covenants are mutually exclusive. The Covenant on Economic, Social and Cultural Rights (1966) states that "the ideal of free human beings enjoying freedom from fear and want can only be achieved if conditions are created whereby everyone may enjoy his economic, social and cultural rights, as well as his civil and political rights...." See also, Covenant on Civil and Political Rights (1966).

45. CSCE Commission translation of reports of Helsinki Accord Monitors, Vol. I, p. 50.

46. Kavass, Igor and Granier, Jacqueline and Dominick, Mary, Human Rights European Politics and the Helsinki Accord, Stage II Documents (Geneva 1973-5), Vol. III, CSCE/II/A/10 (October 9, 1973), Proposal submitted by

the Holy See. The United Kingdom was most insistent on the use of the term "inherent."

47. Gantman, Vladimir, "Between Helsinki and Belgrade: Practice and Concept of International Detente" in Prospects of Co-operation in Europe: Considering the Balance of National, Regional and Common European Interests, International Institute for Peace (Vienna), Seventh conference: Potsdam "Cecilienhof," 4-5 December 1976 (Vienna: Gazzetta Pub. House, 1977), p. 23. See also Soviet News, 8 August 1978, p. 276 and Pravda, 12 February 1977, p. 3.

48. U.S. Congress, Commission on Security and Cooperation in Europe, Report of the Helsinki Accord Monitors in the Soviet Union, Vol. I, p. 18.

49. Sixth Semiannual Report by the President to the Commission on Security and Cooperation in Europe, 1 December 1978 - 31 May 1979, p. 6, in Kavass and Granier, Series II, Book II, p. 6.

50. One of the most prominent of the Soviet dissidents, Andrei Sakharov, has summarized these points in the following manner: "The most serious defect of a 'closed' society is the total lack of democratic control over the upper echelons of the party and government in their domestic affairs and foreign policy. The latter is especially dangerous....The 'closed' nature of our society is intrinsically related to the question of civil and political rights. The human-rights issue, therefore, is not simply a moral one, but also a paramount, practical ingredient of international trust and security. This thesis has been the leitmotif of my public statements over the last several years." Sakharov, Andrei, Alarm and Hope (London: Collins and Harvill Press, 1979), p. 102.

51. Literaturnaia gazeta, 29 September 1976, p. 14 in Current Digest of the Soviet Press, Vol. 28, no. 40 (3 November 1976), p. 17.

52. Pravda, 18 March 1978, p. 4 in Current Digest of the Soviet Press, Vol. 30, no. 11 (12 April 1978), p. 16. See also, Izvestiia, 21 November 1980, p. 4 in Current Digest of the Soviet Press, Vol. 32, no. 47 (24 December 1980) p. 22

53. Similar articles are included in the criminal codes of all the republics and have been used against OGS

members in the Ukraine (Article 62), Georgia (Article 71), Lithuania (Article 68) and Armenia (Article 65).

54. "Rabochaia Kommissiia po rassledovaniiu ispol'zovaniia psikhiiatrii v politicheskikh tseliakh: Zaiavlenie dlia pressy," Arkhiv Samizdata, (22 May 1978), AS 3247, pp. 441-2; Prilozheniia: Gruppy sodeistviia vypolneniiu khel'sinkskikh soglashenii v SSSR, (22 May 1978), AS 3299, pp. 463-4. The authors of AS 3247, which included Elena Bonner, claimed that Podrabinek's work, "Punitive Medicine," did not violate any laws of the Soviet Union and was, regardless, protected by international human rights guarantees including the Final Act.

55. Barghoorn, Frederick, Detente and the Democratic Movement in the U.S.S.R. (London: Collier MacMillan Publishers, 1976), p. 122.

56. Ibid.

57. Pravda, 21 May 1978, p. 6 in Current Digest of the Soviet Press, Vol. 30, no. 20 (14 June 1978), p. 1; Vechernaia Moskva, 18 May 1978, p. 3 in Ibid, pp. 1-3.

58. Epstein, Edward Jay, "The War Within the CIA," Commentary Vol. 66, no. 2 (August 1978), pp. 35-39. The Lipavsky affair was confirmed on the American side due to a unique series of press attacks and internecine disagreements in the CIA. It should be noted that former CIA Director, William E. Colby, states that "the CIA apparently tried him [Lipavsky] out and abandoned him after a few weeks of its usual cautious testing." But he admits that "the Soviets utilized these tentative contacts as the basis for a concocted attempt to smear the Jewish activist movement." Commentary Vol. 66, no. 4 (October 1978), p. 7. Also, The Times, 9 July 1978 claimed that the Shcharansky case rested on "an astonishing and inept attempt by the CIA to infiltrate the Soviet dissident movement."

59. The New York Times, 8 March 1978, p. 3.

60. Izvestiia, 5 March 1977, p. 3.

61. Ibid, 8 May 1977, p. 4.

62. Ibid.

63. The Times, 15 July 1977, p. 7. It appears that the Soviet authorities wanted to make an example of Shcharansky as well as Orlov. At the same time as Shcharansky's trial, another trial involving Anatoly Filatov, not a dissident, was under way. Filatov, was convicted of treason and shot. Perhaps the Soviet authorities ran both trials simultaneously in order to further intimidate OGS members and to show that they were lenient with Shcharansky.

64. The New York Times, 8 March 1978, p. 3.

65. The view that many dissidents are actually KGB agents is put forward by Anatoliy Golitsyn in New Lies For Old (London: The Bodley Head, 1984), pp. 227-242.

66. Pravda, 20 May 1978, p. 1.

67. U.S. Congress, Commission on Security and Cooperation in Europe, Report of the Helsinki Accord Monitors in the Soviet Union, Vol. I, p. 117.

68. Bolshakov, Vladimir, This Whole Human Rights Business (Moscow: Progress Publishers, 1982), pp. 40-8.

69. The Times, 8 October 1976 and 12 October 1976, p. 1.

70. Vance, Cyrus, Hard Choices: Critical Years in America's Foreign Policy (New York: Simon and Schuster, 1983), p. 316.

71. Carter reiterated that human rights would be "a central concern of my administration [and] that the American people and our government will continue our firm commitment to promote respect for human rights not only in our country, but also abroad." See Sakharov, p. 50. For Soviet denunciations of Carter's letter see the Soviet Deputy Procurator's comments in The New York Times 23 February 1977, p. 1.

72. Brzezinski, Zbigniew, Power and Principle: Memoirs of a National Security Advisor, 1977-1981 (New York: Farrar, Straus, Giroux, 1983), p. 150. For evidence of Soviet anger over the visit, see Pravda, 3 March 1977, p. 5; Izvestiia, 3 March 1977, p. 3.

73. The Times, 8 February 1977; 12 February 1977; 19 May 1978.

74. Brzezinski continues, "At our end, it is difficult to see, even in retrospect, what other course of action Carter could have pursued....We all felt that the President had to reply." Brzezinski, p. 156.

75. Fifth Semiannual Report by the President to the commission on Security and Cooperation in Europe 1 June - 1 December 1978, in Kavass and Granier, Series II, Book 1, p. 6.

76. Ibid.

77. Carter, Keeping Faith, p. 222.

78. Emigration was used against OGS members in three forms: Ludmilla Alexeyeva was given the choice of emigration or imprisonment and chose the former; former Major-General Peter Grigorenko's citizenship was revoked while he was in the United States for surgery; and on 27 April 1979, a unique prisoner exchange was organized between the Soviet and American leaders in which five dissidents, including OGS members Giorgi Vins and Aleksander Ginzburg, were exchanged for two Soviet UN employees convicted of espionage in the US. See Brzezinski, p. 338-9 and The Times, 11 November 1977, p. 1.

79. The Times, 12 July 1978, p. 7.

80. Ibid, 15 July 1978, p. 1.

81. Time, 24 July 1978, p. 24.

82. Maurice Thorez was the most "loyal" of the West European communist party leaders to the Soviet theoretical line. His enemies often referred to him as the "French Stalin." He died of natural causes, perhaps appropriately, aboard a Soviet liner in the Black Sea in 1964. He was 64 years old. See, The New York Times, 13 July 1964, p. 1; 14 July 1964, p. 3; 24 July 1961, p. 4; 22 November 1961, p. 3.

83. The New York Times, 29 April 1978, p. 7.

84. The Times, 15 July 1978 (Swiss respond by offering to accept dissidents); 14 July 1978 (British Foreign Secretary blocks visit of Soviet Minister for Coal).

85. Ibid, 14 June 1977; 9 December 1977; 11 December 1977; 19 May 1978. John Davies, chief opposition spokesperson on foreign and Commonwealth affairs expressed his "horror at seeing innocent men being put on trial for crimes which we certainly cannot recognize." Ibid, 11 July 1978, p. 12.

86. Ibid, 11 July 1978, p. 6.

87. The New York Times, 16 June 1979, p. 21. Stephen J. Whitfield, Assistant Professor of American studies of Brandeis University, was much more critical when he wrote, "So long as the liberties taken for granted even by the N.A.A.C.P. and the Mexican-American Legal Defense and Education Fund are systematically aborted in the Soviet Union, the new [Helsinki Watch] committee is like people who complain of headaches while a plague rages across the street." Ibid, 5 March 1979, p. 16.

88. See the testimony of Jerry Goodman, Executive Director of the National conference on Soviet Jewry, in U.S. Congress, Commission on Security and Cooperation in Europe, Implementation of the Helsinki Accords: Repercussions of the Trials of the Helsinki Monitors in the U.S.S.R., 95th Congress, 2nd session, 11 July 1978 in Kavass and Granier, Series III, Book 2, pp. 58-76.

89. For an example of cooperation between official and non-governmental organizations in the United States see, U.S. Congress, Commission on Security and Cooperation in Europe, Implementation of the Helsinki Accords: U.S. Compliance, Human Rights, 96th Cong., 1st session, 3-4 April 1979, in Kavass and Granier, Series III, Book 2, pp. 1-498.

90. The New York Times, 29 May 1978, p. 13.

91. Ibid, 7 June 1978, p. 22.

CHAPTER 5

THE CARTER ADMINISTRATION AND
HUMAN RIGHTS DIPLOMACY

When President Jimmy Carter entered office on January 20, 1977, he was prepared to set the United States on a new course in foreign policy. Carter wanted to interject American concern for the "rights" of individuals into interstate relations.¹ During his inaugural address he stated:

Because we are free we can never be indifferent to the fate of freedom elsewhere. Our moral sense dictates a clear-cut preference for those societies which share with us an abiding respect for individual human rights. We do not seek to intimidate, but it is clear that a world which others can dominate with impunity would be inhospitable to decency and a threat to the well-being of all people.²

This was the first official statement by the President that he was about to use "human rights diplomacy" in his foreign policy. While the provisions of the Helsinki Final Act were often used as a definitional code of what rights should be respected, it was clear that the Soviet Union and the United States did not interpret human rights synonymously.³ But an equally serious difficulty, which has not received enough attention, was that Carter's two chief foreign policy advisors disagreed on how to

implement human rights diplomacy. In the case of Zbigniew Brzezinski, the National Security Advisor for the administration, human rights was largely a political weapon to use against the Soviet Union. Cyrus Vance, the Secretary of State, preferred a case-by-case approach in which the human rights compliance of each nation could be measured individually. These and other internal differences were as detrimental to the President's human rights policy as were the antithetical ideological differences between the United States and Soviet Union over human rights.

This chapter will discuss Carter's use of the Helsinki Final Act as one aspect of his human rights policy. Attention will be paid to the foundations of Carter's human rights drive; the role of the National Security Council (NSC) and the State Department in the human rights policy; the difficulty in interjecting humanitarian concerns into both foreign and domestic policy; and finally, the tension generated between the Soviet Union and the United States when human rights were given priority in bilateral relations. Even though this is in no way a comprehensive analysis, it highlights the difficulties inherent in applying the American definition of human rights to relations with other nations, especially the Soviet Union.

FOUNDATIONS OF A HUMAN RIGHTS PRESIDENCY

Carter's decision to consider issues of morality in relations with other nations was politically expedient in 1976. The American public was responsive to the new candidate's disassociation from the Vietnam-Watergate era and his openness in foreign policy which contrasted with Kissinger's realpolitik and his alleged "Lone Ranger diplomacy."⁴ Carter was particularly interested in installing a new administration based upon his view of traditional American idealism which was, in his words, "a practical and realistic approach to foreign affairs [and] the best foundation for the exertion of American power and influence."⁵ To accentuate this approach, President Carter responded in writing to a letter from the Soviet dissident physicist, Andrei Sakharov, early on in his tenure in the White House.⁶ This action was in marked contrast to former President Gerald Ford's refusal to meet with the exiled Soviet dissident, Alexander Solzhenitsyn, out of the fear that this would have been detrimental to American-Soviet relations. Carter's attempt to display his sincerity resulted in a hostile response from Soviet leaders who accused him of interfering in their internal affairs and of promoting a so-called "human rights

policy," not for general humanitarian interests, but specifically to badger the Soviet Union.⁷

The Carter presidency also offered the prospect of a joint legislative-executive effort to protect human rights. Congress had traditionally played the role of human rights watchdog, primarily by linking violations to restrictions in trade. As outlined in Chapter 2, the Trade Act of 1974 (and the Jackson-Vanik Amendment) was one of the first significant pieces of legislation in this respect.⁸ Carter's plans to uphold the humanitarian obligations made by signatory nations to the 1975 Helsinki Final Act would synchronize with congressional attempts to monitor compliance.⁹ A genuine effort to improve the human condition by a world power also appeared to dovetail with the work of various non-governmental organizations (NGOs) such as Amnesty International, the International Commission of Jurists, and the International Committee of the Red Cross.¹⁰ Although these governmentally "independent" organizations welcomed the Carter administration's efforts, their enthusiasm was likely to be tempered by the fact the NGOs have traditionally distrusted any government's attempt to formulate an impartial human rights policy.¹¹

Perhaps the most convincing aspect of Carter's pronouncements on human rights was that he appeared to be

genuinely concerned. In the words of one commentator, "the human rights issue fit Carter like a glove."¹² As a native of Georgia, Carter had witnessed the implementation of state-imposed racial desegregation throughout the 1950's and 1960's. During his terms as state senator and governor, he enthusiastically supported civil rights leaders who were endeavoring to end legal segregation. In Carter's words, "the political and social transformation of the Southland was a powerful demonstration of how moral principles should and could be applied effectively to the legal structure of our society."¹³ Further evidence of Carter's sincerity could be found in his Baptist-Fundamentalist beliefs, which he continued to practise by joining a Baptist church in Washington. Thus, the strongest foundation for Carter's human rights policy was probably Carter himself and the fact that his pronouncements on human rights were as much a matter of personal conviction as zeal for political support. The politically interesting question is how Carter's concern for human rights was transformed into a policy which was supported unanimously within his administration and applied consistently in international relations. To answer this it is necessary to consider the two most significant individuals in formulating and implementing foreign policy

during the Carter administration: Cyrus Vance and Zbigniew Brzezinski.

THE NATIONAL SECURITY COUNCIL AND THE
STATE DEPARTMENT IN HUMAN RIGHTS POLICY

The Carter administration's human rights efforts began without a clear understanding of strategic objectives.¹⁴ This was due, in part, to Carter's inability to foresee the consequences of a strict, case-by-case approach which ultimately left him vulnerable to accusations of selective, inconsistent criticism of other states. This was an insoluble dilemma because every alleged violation of human rights would inevitably represent a unique set of conditions. But Carter could not acknowledge the peculiarities of a specific incident through a predetermined and sweeping policy. Perhaps through concerted and flawless selection, representatives of the Administration could have used the case-by-case approach and maintained at least the appearance of a political and truly humanitarian concern in its castigation of the way some governmental leaders treated their citizens. Yet, the feasibility of preserving such a fastidious balance when selecting targets for public

criticism should have been in doubt from the very beginning of Carter's term in office.

In a more general sense, Carter did not envision the problem of intermeshing other foreign policy concerns with human rights. Even if the National Security Council and the State Department had been united in their objectives and priorities, it is unlikely that human rights or, in a broader sense, "morality," could have been the primary influence on the formulation of foreign policy. The primary spokespersons for these two departments did not present synonymous views on the role of human rights in foreign policy. In order better to understand these differences this section will analyse the composition of these two bodies, especially where relevant to human rights. This will be followed by a brief examination of the disputes between them.

The National Security Council

On 23 January 1977, during the ceremony for swearing-in cabinet members, President Carter introduced his National Security Advisor as follows:

He has been an incisive analyst of the international field. He will be my closest advisor in tying together our economics, foreign policy, and also defense matters....He will put together the most intimate preparations of any kind of

crisis that affects our nation....I would like to introduce to you Dr. Zbigniew Brzezinski.¹⁵

This early statement was indicative of the fact that Brzezinski would become Carter's most influential advisor. He dominated the decision-making process in the National Security council and had virtually unlimited access to the President. Brzezinski was the first advisor to brief Carter each day. In other words, Brzezinski had immense potential to influence President Carter and to explain the administration's human rights policy to others.

Brzezinski first met Carter through the Trilateral Commission in the early 1970's and was later active in preparing foreign policy briefs for Carter's presidential campaign. He stressed the need for Carter to emphasize the lack of leadership in the Ford administration during the second presidential campaign debate in which the incumbent's terrible gaffe about the lack of Soviet domination in Eastern Europe contrasted with Carter's determination to hold the Soviet leaders to their obligations in the human rights category of the Helsinki Final Act. Brzezinski felt that human rights had a place in foreign policy, not because of any deep-rooted humanitarian concern, but because "the previous Administration's lack of attention to this issue had undermined international support for the United States."¹⁶ Perhaps

Brzezinski's own experiences as a Polish emigre and staunch Polish nationalist also contributed to his attitude. For these reasons, Brzezinski involved the NSC in human rights issues for the first time in its existence. A "Global Issues Cluster" was established to consider human rights along with other foreign policy concerns, in other words, to integrate human rights into foreign policy. The prominent members of this group included: Dr. Jessica Tuchman, former political advisor to congressman Morris Udall and a specialist in nuclear proliferation; Colonel Leslie Denend, economist and Air Force officer; and Linc Bloomfield, a scholar of world affairs.

Brzezinski's role as a human rights advocate was dismissed by certain critics as another way of articulating his anti-Soviet attitudes and his perception that the Soviet Union is essentially a totalitarian state. Such cynics could have quoted a host of Brzezinski's scholarly writings to bolster their claims.¹⁷ As early as January 1976, he (along with Richard Gardner of the University of Columbia) had developed a foreign policy for Carter based on a "comprehensive and reciprocal detente" with the Soviet Union.¹⁸ But the likelihood of reciprocity was minimal because, according to Brzezinski: "communist regimes, more than the pluralistic West,

require hostility and tension to maintain their unity...and the development of stabler relations inescapably opens the East to Western influences."¹⁹ Because of the unabated competition between East and West, the human rights issue could be used to gain an ideological edge on the Soviet Union. Therefore, he believed that the "best way to answer the Soviet's ideological challenge would be to commit the United States to a concept which most reflected America's very essence."²⁰ In a broad sense, human rights could be coalesced into an overall policy of enhancing American power but, according to Brzezinski:

when a choice between the two had to be made, between projecting U.S. power or enhancing human rights (as, for example, in Iran), I felt that power had to come first. Without credible American power, we would simply not be able either to protect our interests or to advance more humane goals.²¹

Brzezinski thus argued that military strength was an essential attribute for the security of the US and its potential to influence global affairs. After the US had used power to resolve a conflict, Brzezinski would favour a justification that held that higher American moral values had triumphed. An improvement in human rights would, in Brzezinski's outlook, flow naturally from the projection of American convictions abroad. President Carter by contrast, argued that the dynamism of American

society was due to an unwavering desire by most Americans to perpetuate the high legal and ethical concepts enshrined in the US Constitution. Thus, the President would favour the use of force only after a prior screening to assure that military operations conformed to a predetermined set of humanitarian standards. At least in theoretical terms, Carter and Brzezinski differed in what is often referred to as the "chicken or egg" dilemma, although the two men did not acknowledge the differences in their perspectives.

As an extension of the East-West relationship, human rights also was a way of gathering support from the developing nations. For this reason, Brzezinski wholeheartedly supported Carter's decision to appoint the black American, Andrew Young, as US Ambassador to the United Nations. During the next four years the administration attempted to improve relations with black Africa (by encouraging black rule over white minority dominion in Rhodesia, for example).²²

The NSC was to play a significant role in the formulation of a human rights policy, especially through its efforts to balance humanitarian concerns with national security. Zbigniew Brzezinski, as NSA, assured the predominance of the latter concern.

The State Department

State Department machinery for promoting human rights was expanded in 1977, but the origins of these improvements were derived from the legislative, rather than the executive branch. The single most influential committee in this regard was the House Subcommittee on International Organizations and Movements of the House Foreign Affairs Committee, chaired by Congressman Donald Fraser. On 27 March 1974, the subcommittee issued a report entitled, "Human Rights and the World Community: A Call for U.S. Leadership," which outlined various ways of combining humanitarian concerns and other foreign policy issues. Of primary significance for this study was a recommendation to the State Department that the policy-making apparatus should be reorganized by creating an office for human rights within the State Department, assigning human rights officers to each regional bureau and appointing an assistant legal advisor for human rights.²³

Due to congressional pressure, the Kissinger State Department reluctantly accepted all three recommendations, most notably by establishing the Office of Coordinator for Humanitarian Affairs and appointing a Deputy Director for Human Rights Affairs. The Bureau of International Organization Affairs gained a second human rights officer

while similar individuals were appointed to other existing bureaus concerned with policy planning, security assistance and developmental assistance (especially within the Agency for International Development--AID). Regional bureaus were also staffed with human rights officers, especially those which received US aid.²⁴

In actuality, most of the structural improvements during this period were State Department window-dressing. None of the human rights officers appointed was senior enough to ensure that human rights would influence policy planning. Moreover, human rights officers designated for regional bureaus lacked training and commitment and, according to one commentator, their "predominant concern has been the protection of their foreign 'clients.'"²⁵ As mentioned above, Kissinger's insistence that Ford not meet with Alexander Solzhenitsyn because of Soviet objections was symbolic of the shallowness of his commitment. Indeed, Kissinger was far more concerned about making headway in broader issues in American-Soviet relations and since a meeting with Solzhenitsyn would not benefit detente, but could actually generate animosity from the Soviet leaders, Solzhenitsyn's meeting would have to be sacrificed. For Kissinger, concrete political issues were far more important than intangible humanitarian ones.

When the Carter administration entered office in January 1977, the skeleton of a joint executive-legislative human rights "program" was already in place. A memorandum circulated on 11 February 1977 by Carter's Secretary of State, Cyrus Vance, set out improvements in existing human rights machinery. The Office of Coordinator for Humanitarian Affairs was replaced by a newly created Bureau of Human Rights and Humanitarian Affairs. It supervised the Bureau of 30 individuals--10 involved in human rights issues generally, while the remaining staff were concerned with refugees, prisoners of war and soldiers listed as "missing in action."

To enhance the role of human rights in foreign policy-making and to coordinate this concern with all relevant departments, an Interagency Committee on Human Rights and Foreign Assistance was installed in the State Department. This committee was staffed by deputy assistant secretaries from regional and functional bureaus and chaired by Deputy Secretary of State, Warren Christopher who was given full authority to run the State Department while Vance was abroad on foreign engagements.²⁷

As a result of the 1976 Foreign Assistance Act, the Bureau of Human Rights and Humanitarian Affairs was required to present reports to Congress on human rights

and foreign assistance.²⁸ The role of human rights officers in regional bureaus was re-emphasized so that those individuals would become more active in collecting information about human rights violations to present to the Bureau. In addition, human rights officers were assigned to US embassies abroad.

The State Department was also active in promoting the CSCE process by preparing semi-annual reports describing the progress of implementation in signatory countries to the Helsinki Final Act. The reports were submitted to the newly created Commission on Security and Cooperation in Europe (the "Helsinki Commission").²⁹

The first attempt to define the term "human rights," as the Carter administration intended to use it, was made during Cyrus Vance's first public appearance as Secretary of State in which he outlined the following:

First, there is the right to be free from governmental violation of the integrity of the person. Such violations include torture; cruel, inhuman, or degrading treatment or punishment; and arbitrary arrest or imprisonment. And they include denial of fair public trial, and invasion of the home.

Second, there is the right to the fulfillment of such vital needs as food, shelter, health care, and education. We recognize that the fulfillment of this right will depend, in part, upon the stage of a nation's economic development. But we also know that this right can be violated by a Government's action or inaction--for example, through corrupt official processes which divert resources to an elite at the

expense of the needy, or through indifference to the plight of the poor.

Third, there is the right to enjoy civil and political liberties--freedom of thought, of religion, of assembly; freedom of speech; freedom of the press; freedom of movement both within and outside one's own country; freedom to take part in government.³⁰

According to Vance, the speech was intended to reveal:

the considerations we would take into account, on a country-by-country basis, in deciding the extent to which human rights concerns would influence other aspects of our relations with a particular country. I wanted to make clear the shape and substance of our human rights policy and the fact that it was universal in application, yet flexible enough to be adapted to individual situations.³¹

The three broad categories were based upon the International Bill of Rights and supported by Patricia Derian, head of the Bureau of Human Rights and Humanitarian Affairs, in an attempt to display State Department unity in implementation of a human rights program.³²

Nearly one month later, Carter, speaking at the University of Notre Dame, presented his foreign policy as "democratic...based on fundamental values, and that uses power and influence...for humane purposes."³³ Exactly how power and influence would figure into a long term strategy remained ambiguous and eventually caused divisions within the Executive.

Controversy Over a Human Rights Strategy

The Carter administration operated for a year before deciding upon the content and application of its human rights policy. Presidential Directive 30 was the first clear attempt to confront this necessity.³⁴ The lack of synthesis in the human rights strategy was surprising given the controversial nature of the issue. Differences between the Secretary of State and the National Security Advisor were most responsible.

Brzezinski describes the alleged personal tension between Vance and himself as a creation of the press while, at the institutional level, he did notice "how much pressure there is from one's own subordinates to engage in conflict with one's principal peers."³⁵ Issues of loyalty and morale were at stake, especially in Vance's case because of "far greater pressures from the much larger, extraordinarily turf conscious, and more insecure State Department bureaucracy."³⁶ Additionally, the two men differed in their approaches to foreign policy. Brzezinski considered Vance's litigational approach to foreign policy, due to his Georgia "gentleman lawyer" background, inadequate compared to a foreign policy based upon power and principle. He noted in his diary on 29 June 1978:

The basic problem remains that our foreign policy is being conducted essentially on a contractual-legal basis, as if we were negotiating some contract. Unless we bring some situations to a head, be it in Southern Africa or in the Middle East, or even occasionally through a confrontation with the Soviets, we will not resolve the outstanding issues. After all, at least to some, Gordian knots exist to be cut.³⁷

Vance did not agree with this approach because "neither the president nor I wished to use human rights as an ideological weapon, but rather as a basic element of our foreign policy."³⁸ He advocated "quiet diplomacy" as the most sensible way to bring other nations into line, but not through quiet diplomacy as practised by former Secretary of State, Henry Kissinger. Kissinger had given the concept a negative connotation as he considered human rights useless in projecting American influence and, in reality, "appeared reluctant to advocate human rights objectives in quiet diplomacy" let alone in public.³⁹ Therefore, this method did not have a fair trial period during the Nixon administration and subsequently, its effectiveness could not be gauged with accuracy. Without any systematic research into the effectiveness of quiet diplomacy (consultations which may never be revealed to the public), especially through non-governmental organizations, the likelihood of improving human rights in this fashion is open to debate.⁴⁰

Nevertheless, there are sound reasons for approaching human rights violators in the private diplomatic channel with the threat to "go public." Quiet diplomacy is not necessarily silent diplomacy. Rather, it is a way of influencing the actions of another government without placing it in the public spotlight. With this more private modus operandi representatives of the offending government are not placed so severely on the defensive as to resort to the claim that they are under ideological attack. In contrast, Brzezinski's method of "constructive global engagement," through which Soviet ideological expansion would be countered by "a more affirmative American posture on global human rights," aligned humanitarian concerns with the broad ideological conflict between the US and the USSR.⁴¹ This further "politicized" human rights.⁴²

In conclusion, Carter's two most influential advisors were at odds in their human rights strategy such that, in a case-by-case analysis, their individual input into human rights policy was inconsistent. Brzezinski claims to have deserved the predominant position because of the accuracy of his grim assessments of Soviet global intentions and because:

the Administration needed an articulate voice to explain what it was trying to do [and] for all his many gifts and personal qualities, [Vance]

was not an effective communicator, and the President started encouraging me to speak up more.⁴³

Dissonance of opinion in human rights, as well as general discord over foreign policy (especially in the case of Iran), led Vance to resign on 21 April 1980.

A deeper probe into the relationship between human rights and other matters of foreign policy will be useful here. The following section describes specific instances when the Administration was united and divided, in conducting human rights diplomacy.

HUMAN RIGHTS AS ONLY ONE COMPONENT IN FOREIGN AND DOMESTIC POLICY

The Carter administration provides an excellent example of the difficulties inherent in attempts to make human rights a major consideration in foreign policy. To initiate more "moral" criteria in relations with other nations, Carter would need "the dexterity of a juggler, the verbal sensitivity of a poet, and the patience of a saint."⁴⁴ Had Carter been able to implement his human rights policy in a vacuum protected from other issues, then the difficult task of defining "human rights" would have been much easier. But American foreign policy has, especially since the dawn of the nuclear era, touched upon

nearly every region of the globe and in many geographical areas, human rights have not been easy to define or to mesh with other equally important issues. Joshua Muravchik, former Executive Director of the Coalition for a Democratic Majority has summarized Carter's "vexing dilemmas" as follows:

In short, the Carter experience left in its wake a consensus on two points: first, emphasizing human rights in foreign policy is a good idea; second, implementing this idea is difficult and Carter's own efforts left much to be desired. This difficulty has two chief sources. First, too little is known about how to foment a lasting improvement in observance of human rights in societies where they are not widely observed....Second, even those who believe most strongly that the United States should have a human rights policy agree that it cannot be the only goal of U.S. foreign policy. Sometimes the pursuit of human rights may suggest actions that would disserve other goals.⁴⁵

While many dilemmas in policy formulation were evident, this section will examine only three examples where members of the Carter administration were faced with equally pressing exigencies that could have potentially outweighed emphasis on human rights. Ultimately, the categories of national security, the Strategic Arms Limitations Talks (SALT) and international trade relations progressively overshadowed the ambitious pledges to improve the human condition. Clarification of this reality is important because representatives of the Reagan administration later attempted to define the content and

applicability of their human rights policy, drawing upon the experiences of the previous administration.

Deputy Secretary of State Warren Christopher stated in early 1978 that "important as they are, human rights, in the light of strategic needs, are not the single overriding factor in decision-making."⁴⁶ In other words, certain nations, whose record on human rights abuse warranted US criticism, actually received preferential treatment because of US security interests.⁴⁷ South Korea (the Republic of Korea), the Philippines and Iran were representative of this concern.

As early as October 1976, Vance noticed the special problem posed by human rights abuse in South Korea due to the security of Japan and because of the United States' political and military position in East Asia. He writes:

While the situation in the south fell far short of what most of us felt was desirable, we constantly had to weigh the fact that only thirty-five miles to the north of Seoul was a nation in which control of the population was absolute and freedom nonexistent. The contrast could not be ignored, and although some critics felt that we were not vigorous enough in advocacy of human rights in South Korea, I felt that a careful balance was essential, and made sure that it was maintained.⁴⁸

According to a report compiled by the State Department and delivered to Congress on 8 February 1979, "the division of the Korean Peninsula and the continuing threat of North Korean aggression remain the pervasive factors in South

Korea's national life."⁴⁹ Through a clause in South Korea's 1972 Constitution, the President of the Republic of Korea, General Park Chung Hee, curtailed civil and political rights and allegedly resorted to torture and general mistreatment of prisoners. The official State Department position was that these actions were "contrary to international human rights standards" and Carter, during a trip to Seoul in June 1979, appealed to Park to liberalise the emergency measures (Carter's appeals were subsequently censored in the South Korean Press).⁵⁰ A few prisoners were released as a token symbol of improvement, but Park was well aware of the advantageous position that US security interests provided for his own country. In fact, he openly complained about US pressures on human rights.⁵¹

East Asia specialists in the State Department opposed any punitive measures such as withdrawing US troops from Korea. Actually, Carter had advocated a US military withdrawal during the presidential campaign and throughout 1977. His general plan was to evacuate US soldiers within a four or five year time period (by the end of his term).⁵² Brzezinski opposed troop withdrawals because he did not want to link military assistance to human rights in such a sensitive region.⁵³ In contrast, the Bureau of Human Rights supported withholding American Development

Bank loans as an alternative to withholding military assistance loans. (This was done for a brief period in 1977.)⁵⁴

In the end, Carter backed down on his plans to withdraw a 6,000-man brigade in 1978 and compromised by a scheduled withdrawal of one combat battalion of the three in the brigade. Even this "compromise" was scrapped after Central Intelligence Agency estimates of North Korean military hardware proved to be 30 percent too low. Moreover, after Park's assassination in October 1979, US troop commitments were increased, rather than decreased. The approaching 1988 Seoul summer Olympics has further solidified the American presence in South Korea.

In December 1978, the United States signed an agreement with the Philippine government to maintain military bases at Clark Air Field and at the Subic Naval Base. The agreement called for \$500 million in military and economic aid. While South Korea was faced with a predominately external political-military threat in North Korea, the Philippine government of Ferdinand E. Marcos pointed to serious internal threats by Muslim insurgents in Western Mindanao and in the Sulu Archipelago and also to the presence of a large and militant communist party. Allegedly, these internal threats necessitated restrictions on the rights of citizens, including the use of

military force to suppress insurrection and potential opposition groups.

Whether or not the United States could influence the behaviour of the Marcos' government regarding its domestic situations was viewed as subordinate to the need for "defensive" military bases there. Marcos initiated limited reforms (such as permitting regional elections in Muslim areas of the Philippines), but improvements were "temporary facades [sic] to ensure continued U.S. Military and economic support."⁵⁵ The more significant issue was whether or not the Carter administration was aware that these improvements were only cosmetic, and deliberately chose to ignore the actual state of affairs. In other words, was the concern over national security more important than human rights?

The previous paragraphs represent governmental arguments to defend American security interests in the Philippines, but a convincing argument, based on three general considerations, has been made against the US military presence.⁵⁶ Firstly, Philippine armed forces were engaged in "provocative actions in potentially oil-rich areas of the South China Sea claimed by Beijing, Taipei and Hanoi."⁵⁷ American military aid would support these activities leading to further instability in the region, rather than enhancing security. Secondly, a host

of alternative military sites were available. Among these were a relatively unused number of bases made available by the Japanese Government; the former American World War II bases in the Marianas Islands, north of Guam; Guam itself; or even enlarged use of American bases in Singapore.⁵⁸ A move to any of these alternate sites would have added to increasing military expenditure, but the political gains provided justification (although an evacuation of the Philippines could possibly have resulted in less influence on the human rights practices of that government). Finally, national security and promotion of human rights are not mutually exclusive. The Philippines set a negative precedent for American relations with regional nations who are vital links in the "geostrategic" network of the United States. A weak stance on the Marcos regime created human rights timebombs in a host of other "allied" nations (especially those receiving US aid) in Central America (El Salvador, Guatemala) and Africa (Central African Empire, Guinea). Ultimately, the final chapter of the regime of Ferdinand Marcos was completed in February 1986. By that time, internal opposition to the corruption and brutality of the government was manifested through broad electoral support for Corazon Aquino, wife of the slain Philippine opposition leader.⁵⁹ From January 1986 spokespersons for the Reagan administration had openly

criticized Marcos for failing to initiate political and economic reforms and for purposely deceiving the Philippine and American public about his service record in World War II. Marcos' attempts to manipulate the 1986 elections were exposed and he ultimately abdicated from his self-professed presidency aboard a US Air Force plane in late February.⁶⁰

American policy-makers and statesmen were forced to reverse their positions on Marcos. Complaints about the violations of basic human rights were so severe and destabilizing that it was best to encourage the removal of Marcos and to accentuate humanitarian aid over military assistance.⁶¹ Carter had misjudged the former Philippine President, but the impact of his misperception was not revealed until well after the end of his administration. The fall of Marcos and the potential dangers to American security interests in the Pacific basin then revived the debate over the exercise of American power and influence in other nations.⁶²

The probable effects of American support for repressive regimes were clearly demonstrated in Iran in 1979. The Shah provided a source of regional stability in the Persian Gulf for the American government. US military aid to Iran in 1977 totaled \$4 billion, one-half of the United States world military aid (which was increased to

\$10 billion on the Shah's 1978 arms shopping list). In that year, the Shah bought 160 advanced F-16 fighter aircraft plus 7 airborne warning and control aircraft (AWACS) with a request of 140 more F-16's and a number of F-18 fighters. In return, the Shah refused to participate in OPEC price increases. (He had refused to join the 1973 Arab oil embargo.)⁶³ But his attempts to enlarge Iran's military capacity without reciprocal oil price increases strained the economy and further accentuated the inequalities in his country and led to popular discontent.

The tenuous balance between human rights and security interests in Iran was described by Vance:

It was clear that it would be hard to maintain public support for our strategic relations with Iran if the Shah failed to pay more attention to human rights....Neither the president nor I, however, believed that the maintenance of a stable relationship with Iran precluded encouragement of improvement in its human rights policy and the development of a practical method of identifying the meeting its military needs.⁶⁴

The State Department openly admitted that "government security forces used some extreme violence in attempting to control unarmed demonstrators."⁶⁵ Subsequently, in May 1977, Carter issued Presidential Decision Memorandum 13 (PD-13) which categorized arms transfers as an exceptional instrument of US foreign policy. Through PD-13, sales of crowd control equipment to the Iranian internal security force SAVAK, were curtailed. When the Shah traveled to

Washington in November 1977, Carter emphasized the growing accusations of human rights abuse in Iran by religious leaders, the middle class and students in Iran and overseas.⁶⁶ The Shah's response was that suppression was necessary against the limited elements of subversion in his country and that no flexibility was possible. On 8 September 1978, he declared martial law in Iran.

If a "revolution" in Iran was the inevitable culmination of the Shah's government, which did not allow a broad base of political participation, then the United States should have played a more assertive role in the early stages (the first months of 1977). But Vance and Brzezinski disagreed on how to achieve a political solution in Iran. Brzezinski favoured the establishment of a military regime as a last ditch attempt to create stability. This could be enhanced by the deployment of US troops in southern Iran with the objective of protecting the Iranian oil fields.⁶⁷ Vance, Christopher and Vice President Walter Mondale opposed a military solution because of the possibility that this would lead to a bloodbath. They proposed a more lenient approach which would allow the political activists to have more influence on the government.⁶⁸ Faced with a moral-political crisis, the divided Administration was unable to support the Shah. On 16 January 1979, the Shah fled from Iran.

US support of the Shah's repressive regime, in the interest of national security, discounted the increasing internal discontent over human rights abuse. South Korea, the Philippines as well as Iran, provide examples of the need to reconcile national security and human rights issues. In essence, representatives of the administration had created a dilemma. They were determined to apply a universal standard of human rights (ambiguously defined) in their foreign relations which constrained both their efforts to weigh other foreign policy concerns and their attempts to consider the long-term welfare of citizens over the short-term reactions of other allies and the media. The policy was most likely to be successful when members of the administration, especially Brzezinski, could point to Soviet ambitions altering the balance of power in various regions. This could have been portrayed as an immediate and future threat to Western democratic ideals. But when governments friendly to the US came under fire from their own citizens, the Carter administration appeared incompetent or hypocritical for failing to apply its stated standards to some of the worst human rights violators. At the same time, because Carter was increasingly forced to target precisely the aforementioned governments for verbal or economic sanctions, US national security interests were always in danger of neglect.

Finally, it must be noted that Carter's human rights policy ignored the peculiarities of the Soviet political and economic system such as its authoritarian political tradition and resistance to foreign ideologies. Predictably, the policy also discounted the uniqueness of nations that were allies of the United States and it did not recognize that major changes in those countries would have to come from within to be truly legitimate. The administration also needed observers who were talented enough, and a policy that was flexible enough, to recognize when friendly leaders had lost their foundation of political support. Within the CSCE, the administration would always have the luxury of concentrating on the Soviet Union and Eastern Europe with the support of allies whose records in the category of human rights were largely above reproach. Outside that limited forum, the administration's policy was not universally flexible.

The Strategic Arms Limitation Talks (SALT)

If the human rights policy was not easily adaptable to other general concerns, such as national security, then perhaps it was possible at least to link it to specific foreign policy issues at critical times, such as arms control. In fact, President Carter's determination to

reach an arms limitation agreement with the Soviet Union (and eventually, an arms reduction agreement) placed his human rights policy in a precarious position. The Soviet leaders resented American criticism of the persecution of dissidents, but they were especially incensed over Carter's attempts to link this issue to arms control. In an attempt to de-emphasize the linkage, Carter wrote to Brezhnev on 14 February 1977 and commented in his diary for that day:

It's important that he understand the commitment I have to human rights first of all, and that it is not an antagonistic attitude of mine toward the Soviet Union--and that I'm very sincere about my desire to reduce nuclear armaments. If he's willing to cooperate, we'll get something done before four years go by.⁶⁹

Carter's initial optimism about achieving a SALT agreement and improving the Soviet human rights record was stifled during Foreign Minister A. Gromyko's visit to Washington on 22 September 1977. Carter mentioned how the trials of Soviet dissidents Anatoly Shcharansky and Aleksander Ginzburg caused concern in the United States.⁷⁰ Gromyko responded that Shcharansky was "a microscopic dot who is of no consequence to anyone."⁷¹ This was an early indication that the human rights issue and a SALT agreement would become linked throughout the negotiations.

Linkage between human rights and arms agreements has been described as a conflict between human liberty and

human survival.⁷² Liberty was at stake because the trials of Shcharansky and Ginzburg were signs of the fate of all human rights advocates in the USSR. Survival was at stake due to the destructive power of the nuclear weapons arsenals of each nation. During the Nixon and Ford administrations, nuclear disarmament was the predominant concern at the expense of human rights, such that the US became uncharacteristically quiet on repression in the Soviet Union. According to The Times, the Soviet government returned the favour and "actively joined President Nixon's campaign to keep himself in office and discredited his adversaries, including, especially, the American Press."⁷³ Naturally, the lack of visible attention to human rights led to severe criticism in the press. Carter attempted to reverse this trend and treat disarmament and human rights as mutually desirable objectives.

Soviet involvement in arming Ethiopia, transporting Cubans to Angola and clandestinely intervening in the Horn of Africa and the Middle East was also "linked" to the ongoing SALT negotiations. Brzezinski warned that these activities violated the code of detente and could threaten the chances of an arms limitation agreement, while Congress was sure to restrict severely any trade with the

Soviet Union until it tempered its foreign and domestic behaviour.⁷⁴

Thus, early on in the negotiations, a "human rights dialogue" was established between the US and USSR. Vance, whose preference was to exercise quiet diplomacy during the SALT talks, noted his meeting with Brezhnev on 27 March 1977:

Brezhnev immediately launched into a diatribe in which he catalogued alleged human rights abuses in the United States. I responded sharply to his charges and stressed the importance of making progress in our talks. We needed concrete progress, not polemics.⁷⁵

Vance met with Gromyko in July 1978 in Geneva to continue SALT negotiations. This meeting followed the cancellation of a trip to Moscow (on 30 May 1978) by Joseph Califano, Secretary of Health, Education and Welfare, because of the harsh sentence dealt out to the founder of the Moscow Helsinki Monitoring Group, Yuri Orlov. Most significantly, the negotiating process continued alongside the human rights dialogue.

Carter's success in achieving both objectives simultaneously was represented in the US-Soviet prisoner exchange in April 1979 in which five Soviet dissidents were flown to New York in return for two imprisoned Soviet spies (although the dangers of exchanging spies for dissident will be discussed in the following chapter).⁷⁶

Two months later (June 1979), Carter and Brezhnev met in Vienna to sign a SALT II agreement.⁷⁷

During the Vienna summit Brezhnev told Carter: "I want to talk about peace, and how to improve Soviet-American relations, but human rights is a sensitive subject for us and is not a legitimate ground for discussion between you and me."⁷⁸ In response, Carter stated that the subject of human rights was important in shaping US attitudes toward the USSR and that the recent liberalization of emigration and the prisoner exchange were progressive signs.⁷⁹ He then called for the release of Anatoly Shcharansky and other dissidents.⁸⁰ The temporary conclusion of the SALT negotiations took away an important human rights lever for the Carter administration. In fact, the summer of 1979 was the peak of Carter's human rights effectiveness because, as Brezhnev's statements indicated, the Soviet leaders were about to tighten their control.

In conclusion, Carter efforts to enhance liberty and survival through the SALT process achieved limited progress. He had imported the conditions of at least a handful of human rights advocates in the USSR during the talks themselves. In retrospect, Carter stated:

Throughout the SALT negotiations, in my personal meetings with President Brezhnev, Foreign Minister Andrei Gromyko, Ambassador Dobrynin,

and other Soviet leaders, and during other times of serious discussion between our two countries, I cannot recall any instance when the human rights issue was the direct cause of failure in working with the Soviets on matter of common interest.⁸¹

In this way Carter claimed not only that the human rights issue did not damage the arms limitations talks, but also that the Soviet leaders had accepted that human rights were a legitimate issue for negotiation.

Human Rights and International Trade Relations

A third dilemma encountered by Carter's human rights diplomacy involved the formulation of a consistent policy of trade restraint with human rights violators. Congress had initiated foreign assistance legislation on this matter in 1961, legislation which the executive was to incorporate into interstate relations. One of the Carter administration's primary spokespersons stated quite explicitly:

We have indicated many times by our vote in international financial institutions our view that human rights violations by countries should affect the flow of resources to them.⁸²

But as exemplified in the previous section, other foreign policy concerns frequently intrude into the criteria used to determine the advisability of military or economic assistance to a particular nation. In some cases, the

international community can work against, and subsequently neutralize, American efforts to punish human rights violators in this way. Finally, in at least one case, Carter's actions in foreign assistance were emphatically contradictory to humanitarian interests.

Congressional action to limit trade relations with certain nations was the end result of a campaign by numerous non-governmental organizations to encourage the United States to use its leading role in world affairs as leverage in the cause of human rights. According to one commentator, "the underlying premise is that if the US government were simply to cease certain activities and programs, this in itself would accomplish significant desired change."⁸³ The weakness of this assumption was that it discounted the possibility that other nations could fill the vacancies created by cancelled programs. Furthermore, American sanctions could lead to the total severance of diplomatic relations with a nation, thus undermining any efforts to maintain a productive and positive relationship.

The first sign of congressional activism in this regard was through the 1961 Foreign Assistance Act which restricted economic and military assistance to governments who imprisoned their citizens for political reasons.⁸⁴ In 1974, an amendment to the Foreign Assistance Act (Section

502B) directed the President to "formulate and conduct international security assistance programs of the United States in a manner which will promote and advance human rights" and deny security assistance to nations engaging in "a consistent pattern of gross violations of internationally recognized human rights."⁸⁵ The Department of State was instructed to submit human rights reports on individual countries receiving US development assistance.⁸⁶ Aid was discontinued to violators unless such aid directly benefited needy people. However, methods of assessing if the aid actually reached the needy were never well formulated. If it was determined that the aid was "intercepted" in part, a total sanction would simply hurt the needy even more.

A similar restriction was added to the 1977 International Financial Institution Bill through the Harkin Amendment.⁸⁷ This bill instructed US directors in international financial institutions (IFI's) to vote against aid for the aforementioned reasons. In specific cases, the 1978 Young Amendment blocked aid to Angola, Cambodia, Cuba, Laos, Mozambique, Uganda, and Vietnam.

The Carter administration opposed the Young Amendment arguing that more flexibility was needed for a human rights policy and that Congress was forcing the Administration's hand. After a letter by Carter to the House

Foreign Relations Subcommittee a compromise was struck in which US representatives to IFI's could abstain from voting for multilateral assistance to human rights violators (rather than having to vote against). In return, Carter promised to vote against loans to seven countries throughout 1978.⁸⁸ But Congress and the Executive did not work together harmoniously on this issue, perhaps because of the post-Watergate desire of the legislative branch to exert its authority over such matters. While the Interagency Group on Human Rights and Foreign Assistance (headed by Deputy Secretary of State Warren Christopher) voted "no" to 11 loans and abstained on 21 others between May 1977 and May 1978, these cancelled loans were geared more to left-wing Latin American governments and less to strategic allies such as South Korea, the Philippines and Iran.⁸⁹

A second serious problem with foreign assistance restrictions is the need for cooperation from the international financial community. Two cases in point involve Argentina and Chile. Military aid to Argentina (as well as Guatemala, El Salvador and Brazil) was severely reduced in 1977 because of human rights violations. Yet, the World Bank offered the Argentines \$105 million in credits.⁹⁰ Similarly, after the imposition of a ceiling on military and economic aid to Chile in 1975, the

International Monetary Fund offered them credits up to \$300 million.⁹¹

To exacerbate these difficulties, the Administration itself was divided on the issue of international economic sanctions. As a general rule, the Department of State, Treasury and Commerce opposed the use of economic sanctions while the Bureau of Human Rights was strongly in favour of them. Juanita Kreps, Secretary of Commerce, was "alarmed over the loss of American export business through human rights vetoes and environmental considerations" which amounted to nearly \$10 billion annually.⁹² By the end of his term, Carter had lost support from the business community as a whole because of his position on economic sanctions.⁹³

Finally, Carter's commitment to human rights did not warrant his decision to impose a grain embargo on the Soviet Union (4 January 1980) as punishment for the Soviet invasion of Afghanistan in December 1979. According to an amendment to the Agricultural Trade Development and Assistance Act of 1954:

No agreement may be entered into under this title to finance the sale of agricultural commodities to the government of any country which engages in a consistent pattern of gross violations of internationally recognized human rights, including torture or cruel, inhuman, or degrading treatment or punishment, prolonged detention without charges, or other flagrant denial of the right to life, liberty and the

security of the person, unless such agreement will directly benefit the needy people in such country.⁹⁴ [emphasis added]

The amendment implies on one level that supporting the agricultural sector of an inhumane government to allow it greater profits should not be permissible. On another plane of reasoning, the amendment hints that the increase in productivity and revenue may be a necessary evil in some cases for the truly needy to receive a more nutritious diet. Overall, the Act is basically humanitarian for it stipulates that, most importantly, resources should flow to the indigent.

Also relevant in this regard is Article 25 of the Universal Declaration of Human Rights (1948) which states that "[e]veryone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food...."⁹⁵ Both citations suggest that agricultural equipment and produce usually lie outside the realm of justifiable economic sanctions. The rationale behind these provisions is that deliberately applying such sanctions, when it is clear that the citizens of a target country will suffer far more than the government, could actually lead to a more inhuman condition for the population than existed previously. In a theoretical sense, there is a serious ethical problem for a leader using agricultural equipment and produce to

modify the behaviour of a government, especially when there are so many cases of starvation in lesser developed regions of the world. This general action could subject the initiator of such a policy to criticism from representatives of these nations and others.

The decision to impose a grain embargo on the Soviet Union was opposed by only one of the President's advisors, Vice President Walter Mondale. Mondale's concern was essentially domestic--that an embargo would have negative political influences on the Iowa Primary (a large grain-producing state).⁹⁶ At least Mondale recognized that an embargo might damage the American farmers as much as the Soviet population. But the embargo did not curtail all grain shipments, only those over the minimum agreed level of 8 million tons annually. This was sufficient because, as Brzezinski has noted:

the suspension of additional U.S. grain deliveries to the Soviet Union had a negative impact on Soviet stock feed, disrupted Soviet shipping arrangements, and caused some reductions in Soviet meat consumption and in livestock inventories.⁹⁷

Furthermore, the Department of Agriculture was certain that no other country could replace the United States as a major exporter of grain to the USSR (Argentina, Australia and Canada proved this belief incorrect).⁹⁸ Therefore, a blemish in the Carter administration's human rights policy

was the willingness to restrict access to food in order to punish the Soviet government. Whether or not this attempt was successful, it made Carter's humanitarian concerns appear hypocritical and directed more at the Soviet Union than at other serious violators of human rights. The action could also have given ammunition to the Soviet argument that Carter ignored the most basic social and economic rights of people. In any case, since the value of trade sanctions to alter the domestic behaviour of a government is questionable, actions such as the trade embargo are not worth the potential political fallout.

THE UNITED STATES AND THE SOVIET UNION--

TENSION OVER HUMAN RIGHTS

Carter's human rights diplomacy was not aimed specifically, let alone exclusively, at the Soviet Union and Eastern Europe. If this is true, then why, after only three months in office, did Carter appear to set the United States against the Soviet Union on this issue? First, Carter's handling of the Sakharov affair left the Soviet leaders with no clear alternative except to counter condemnations of them with criticism of the US. Second, Carter inherited the Helsinki process, an extension of the 1975 Conference on Security and Cooperation in Europe

(CSCE) and the forum for a biennial East-West war of words. This kept recriminations of human rights violations alive. Finally, Carter's attempts to vary his treatment of East European countries, or in the words of Brzezinski, to encourage "polycentrism" were in sharp contrast to the declaration of martial law in Poland (13 December 1981) and Soviet intervention in Afghanistan (25 December 1979). These events increased the atmosphere of tension between the US and USSR and demonstrated the futility of "polycentrism," or of attempting to influence the Soviet leaders through the CSCE follow-up conferences. Other options, however, were open to Carter such as making contact with prominent spokespersons within the Soviet Union who campaigned for human rights. No one was as internationally recognized and respected as Andrei Sakharov.

The Sakharov Affair

Andrei Sakharov had written to candidate Carter as early as 11 October 1976 expressing hope that "the commitment to advance human rights throughout the world will occupy an even greater place in US policy."⁹⁹ This was followed by a letter to President Carter on 21 January 1977 in which Sakharov described religious persecution and

named desperate political prisoners in the USSR.¹⁰⁰ This evoked a response from Carter on 5 February in the form of a letter delivered by hand to Sakharov which stated:

Human rights is a central concern of my administration....We shall use our good offices to seek the release of prisoners of conscience, and we will continue our efforts to shape a world responsive to human aspirations in which nations of differing cultures and histories live side by side in peace and justice.¹⁰¹

Some critics in the West categorized the letter as "an unprecedented move that threatens to increase the American-Soviet conflict over human rights in the Soviet Union."¹⁰² As mentioned above, there was concern that Carter was jeopardizing chances for an arms control agreement.¹⁰³ Carter's reply to Sakharov was complementary to critical statements by Vance about human rights abuse in the USSR, Czechoslovakia and Cuba.¹⁰⁴

After less than one month in office the administration had launched a public attack on the Soviet Government, an assault that was interpreted in Moscow as an attempt to undermine the Soviet system.¹⁰⁵ Obviously no serious effort at "private diplomacy" was initiated with Soviet representatives to assess the likelihood of progress through this less embarrassing method. Brzezinski, who drafted the letter to Sakharov along with Vance, saw no alternative:

The letter arrived shortly after the inaugural. Sakharov congratulated the new President on his commitment to human rights and drew attention to the human-rights [sic] problems in the Soviet Union. We all felt that the President had to reply. The prestige of the author was such that failing to do so would invite adverse comparisons with the widely criticized refusal by President Ford to meet with Solzhenitsyn--not to speak of the fact that it would have been cowardly to ignore Sakharov's letter.¹⁰⁶

But Brzezinski does admit that the Sakharov letter and a White House visit by the exiled Soviet dissident Vladimir Bukovsky (February 1977), were diplomatic mistakes in the long term. As early as 18 February 1977, he feared that "the relationship between us and the Soviets might in fact suffer if this keeps up."¹⁰⁷

The human rights issue did become more a point of contention in American-Soviet relations in the months following, especially during the CSCE follow-up meeting in Belgrade. The Carter administration's handling of the Sakharov affair, and ancillary criticism in the first months of 1977, contributed to a conflict over this issue.

The Conference on Security and Cooperation in Europe:
The Helsinki Final Act Follow-up Procedure

President Jimmy Carter inherited the CSCE from the Nixon and Ford administrations which had participated in over three years of negotiation leading to the completion

of the Helsinki Final Act. As noted in Chapter Two, President Ford actually signed the accord, along with the senior representatives of 34 other nations, on 1 August 1975.

The main domestic method of monitoring compliance with the Final Act was through the Commission on Security and Cooperation in Europe (the "Helsinki commission") created by a United States Congressional Bill in June 1976. Carter enhanced this process by instructing the State Department to compile semi-annual reports to monitor the implementation of the document by the signatories. These reports isolated the countries of Eastern Europe, especially the Soviet Union, for criticism of "repression against human rights activists of all sorts."¹⁰⁸ They have also served as background information for the numerous hearings dealing with dissidents in the Soviet Union.¹⁰⁹

Compliance with the standards established in the Final Act are also monitored by a section of the document which calls for a follow-up conference every two years. Carter considered these conferences essential to preserve the vitality of the Helsinki process. Before the first review conference in Belgrade in 1977, Carter summoned Secretary of State Vance to compile a report on US compliance. Vance reported that the US was in accordance

except for travel restrictions to Cuba, North Korea, Vietnam and Cambodia. In response, Carter lifted these restrictions on 1 May 1977.¹¹⁰

Carter's commitment to the Helsinki review process was reflected in his selection of Arthur Goldberg as chief of the US delegation at Belgrade. Goldberg was most knowledgeable about Middle East affairs and had been an instrumental figure in the creation of United Nations Resolution 242 (the "right to exist" clause for Israel).¹¹¹

Belgrade became a human rights battleground between the USSR and the US. If, as one commentator has stated, human rights is a pro-NATO strategy, it was most evident in this case.¹¹² The chief Soviet delegate, Yuli Voronstov, warned that the conference would not continue without acceptance of the agenda proposed by the Soviet delegation. That agenda placed all subjects under a single heading and discounted scrutiny of adherence to specific provisions and reiterated the same proposal made in 1975.¹¹³ By contrast, the EEC and NATO countries were firm in their insistence that Basket III should be considered and evaluated separately, but they were not willing to go as far as Carter.¹¹⁴ In fact, representatives of some Western nations were displeased over the "tough statements about human rights in the Communist

world" uttered by Carter, in contrast to the more reserved approach of the US delegation in attendance in Belgrade.¹¹⁵ Perhaps the fact that President Carter was so far away from the negotiations caused him to have a much more idealistic and unrealistic view of what could be accomplished there.

The negotiations of the follow-up conference took place in closed session, but the vague wording of the concluding document (which requests the participants to "ensure respect for human rights and fundamental freedoms") represented a success for the Soviet delegation.¹¹⁶ An article appeared in Pravda on 18 March 1978 which did, in fact, claim this victory:

The Soviet Union notes with satisfaction that at the Belgrade Meeting the Final Act was defended against all attempts to review it or change its context and meaning and that attempts to legalize interference in states internal affairs were rebuffed.¹¹⁷

Indeed, the Soviet leadership was successful in maintaining its own interpretation of the Helsinki Final Act regardless of American efforts to dictate a Western democratic translation.

In conclusion, Carter improved the machinery to monitor compliance with the Helsinki Final Act. He also made an effort to bring the US into line as well. However, the US (and the majority of the NATO countries) and the

USSR (and the majority of the Warsaw Pact countries) stuck to their long-standing differences of opinion regarding the contents of the Final Act. Carter's attempts to increase verbal criticism of human rights abuses in the Soviet Union put that delegation on the defensive even more in Belgrade. If the Soviet delegates were to compromise and concede to the charges levelled by Carter, they would have been subjected to further public accusations. But a second policy was also in operation and this was to distinguish between the Soviet Union and its East European allies, and to encourage the latter to formulate independent human rights strategies on the American model.

Polycentrism for Eastern Europe

During a Policy Review Committee meeting in April 1977, an attempt was made to outline the Carter administration's general approach to Eastern Europe.¹¹⁸ The meeting was centered on PRM-9 (Presidential Review Memorandum) which outlined four broad options: the US could differentiate more sharply between nations that were more independent from Moscow and those that appeared less so (favouring Romania over Czechoslovakia, for example); the US could maintain closer relations with nations that were more liberal internally (Poland); ancillary to the

second option, the US could curb contacts with nations that did not display a liberal tendency internally; finally, the US could expand all contacts with Eastern Europe.

As described earlier, Brzezinski was Carter's most influential advisor on East European affairs. For this reason, a fusion of the first two options dominated East European policy since Brzezinski felt that it "recognized the American interest in encouraging 'polycentrism' and pluralism in the region."¹¹⁹ An example of the implementation of this approach was Vance's trip to Budapest, in which he returned to Hungary the Crown of St. Stephen, which had been in US possession since the end of World War II. His trip paved the way for a bilateral trade agreement with the Hungarians in March 1978, which granted them Most Favored Nation status.¹²⁰ Subsequently, the US favourably reviewed the Hungarian human rights record.¹²¹

Poland's liberal internal tendencies were "rewarded" in 1979 by direct Commodity Credit Corporation (CCC) credits amounting to \$400 million and administered by the Department of Agriculture. In 1980 the credits were increased to \$670 million.¹²² Since the Soviet Union has tended to place most emphasis on Basket II of the Final Act (economic and cultural exchange), these actions were intended not only to reward relatively "independent" East

European nations, but also to force the Soviet authorities into line in their human rights performance. Yet the fundamental problem with this approach was the assumption that the Soviet Union and the East European nations were willing to pay such a high price (major ideological revisions) to receive trade and credits. Clearly, this has not been the case. American policymakers have often overestimated the feebleness of the Soviet economy (especially the CIA¹²³), while they have underestimated the Soviet desire to search for internal material and systemic solutions to problems of slow economic growth. Broader trade is important to the Soviet leaders, but they will not allow themselves to become dependent upon it.¹²⁴

Brzezinski concluded that, along with differentiation in economic relations, the US should provide more support for Radio Free Europe (RFE). While the State Department restricted RFE (conducive to Vance's preference for private diplomacy), Brzezinski provided for larger financial support coupled with less political control:

While the Radio should not be used to foment insurrections in the East, it should, in my judgment, serve as an instrument for the deliberate encouragement of political change. This meant that the broadcasts had to be addressed to the internal problems of the Communist systems and offer a genuine alternative to Communist policies.¹²⁵

On the other hand, the West German Chancellor, Helmut Schmidt, wanted RFE out of West Germany because its activities were contrary to detente. The Soviet view has been that Western radio broadcasts violate the "Helsinki Spirit" and that jamming is a legitimate response. The number of East Europeans listening to these broadcasts is substantial enough to worry the Soviet representatives into defending radio jamming techniques at the Helsinki follow-up conferences.¹²⁶ But the use of RFE to elicit political change certainly amounts to an attempt to subvert the Soviet system. Therefore, their function should be narrowly defined to presenting Western interpretations of international events along with condemnations of human rights abuse. Attempts to effect political change in Eastern Europe by encouraging actions "from below" may lead to even more repression of human rights advocates because they may inaccurately be labelled as opposition groups bent on destroying that State. As Valery Chalidze has remarked, dissent is not opposition--dissenters, in the Soviet and East European sense, are most often campaigning for strict adherence to the laws of their country and not for the destruction of them.¹²⁷

A foreign policy for Eastern Europe based on polycentrism runs the risk of actually increasing Soviet domination in the region. The Soviet leaders may invoke

the Brezhnev Doctrine, used to justify military intervention in Czechoslovakia in 1968, when fellow socialist countries need a reinforcement of communist ideals. Similarly, had the Soviet Union intervened militarily in Poland, and it appeared that they would in December 1981, the same justification would apply. Therefore, a concerted effort to isolate the Soviet Union from Eastern Europe must consider the reaction this would cause within the Soviet leadership. Polycentrism, if applied through positive incentives such as increased trade relations, may encourage a slightly more independent attitude among the East European nations, but its chances of encouraging a more liberal human rights policy are extremely suspect.

CONCLUSION

The Carter administration provided a brief experiment in human rights diplomacy, perhaps too brief to determine the feasibility of incorporating humanitarian concerns into foreign policy. But at least one outstanding achievement emerged--Carter presented the violations of human dignity to a responsive international community. In other words, Carter was able to increase awareness to growing human rights abuse.

In less positive terms, the record of the Carter administration also indicated the difficulties inherent in articulating a consistent human rights policy within a myriad of other foreign policy concerns. Without outlining his human rights policy from the very beginning, Carter was bound to appear selective in his criticisms. In specific cases of human rights abuse, lack of unity among Carter's foreign policy advisors led to further inconsistencies. What appeared as the single most consistent objective was to isolate the Soviet Union and East European countries for criticism. By choosing the humanitarian provisions of the Helsinki Final Act as the foundation of his policy, Carter actually increased the differences between the United States and the Soviet Union over this subject.

The Helsinki Final Act did not provide a universal definition of human rights. Rather, it was left in such vague terms as to allow a variety of interpretations, and President Carter's attempts to force his view on the Soviet leadership were largely unsuccessful. While Carter's policy to promote human rights suffered from problems of definition and interpretation, it also raised questions about intention.

Was President Carter simply attempting to establish a foreign policy based upon morality? And was he most

concerned with changing the internal behaviour of the Soviet government or with protecting the interests of the United States? In retrospect, it appears that Carter wanted, in principle, to interject fundamental American democratic values into foreign policy. But since it is also apparent that he intended to modify the behaviour of the Soviet leadership, his efforts suffered from three major problems.¹²⁸

Firstly, President Carter assumed that the moral standards of the United States were supreme and should have been adopted by the Soviet Union. In fact, he believed that the Soviet leaders had already adopted these moral standards in the Helsinki Final Act when, in reality, they had not.

Secondly, as stated by George Kennan, it is only natural for governments "to resent interference by outside powers in affairs of this nature [and] we ourselves are not above resenting and resisting it when we find ourselves its object."¹²⁹ The only defensible justification for judging the internal actions of another government is when it may injure the accusing government's interests in some direct way. If the stated actions only offend the sensitivities of the complaining government, then the issue is an entirely political one.

And finally, even though Carter's intentions appeared entirely humanitarian in the beginning, his policy was too concerned with criticizing the failings of others. American objectives would have been better served by concentrating on safeguarding the rights of American citizens and leading by example. In fact, one prominent Congressional advocate, Dante Fascell, had come to this conclusion after the Belgrade follow-up conference. He argued that the Helsinki Final Act should have been at the centre of a debate on civil rights in the United States.¹³⁰ If the administration had followed this advice and initiated an even more deliberate effort to apply the Final Act domestically, Soviet claims of displaced emphasis on their domestic political environment would have been more difficult to maintain. This approach would not have sacrificed the moral ideals of the United States and would have made human rights more a competition for improvement than an assault on failure. Future administrations would be wise to direct their humanitarian concerns inward rather than outward.

ENDNOTES

1. According to one author, "Human rights as a policy is the first innovation in foreign affairs since 'massive retaliation,' and a good deal more popular." Steel, Ronald, "Motherhood, Apple Pie and Human Rights," The New Republic, Vol. 176, no. 23 (4 June 1977), p. 14.

2. 76 Department of State Bulletin 121 (1977).

3. As stressed throughout this work, no universally accepted definition of the term "human rights" exists. One may cite documents of the United Nations as the source and definition (UN Charter, Universal Declaration on Human Rights, International Covenant of Civil and Political Rights, International Covenant on Economic, Social and Cultural Rights, Convention on the Prevention and Punishment of the Crime of Genocide), but many nations have signed only certain documents if any at all. See, Frenkel, Charles, Human Rights and Foreign Policy, Foreign Policy Association: Headline Series 241 (October 1978).

4. This reference to former Secretary of State, Henry Kissinger, was made by Carter in a speech delivered to the Foreign Policy Association in New York on 23 June 1976. Carter was probably referring to Kissinger's use of secret negotiations with other governments when he called him a "Lone Ranger."

5. Carter, Jimmy, Keeping Faith: Memoirs of a President (New York: Bantam Books, 1982), p. 143.

6. Sakharov wrote to President Jimmy Carter from Moscow on 21 January 1977. See Sakharov, Andrei D., Alarm and Hope (London: Collins and Harvill Press, 1979), pp. 46-8. Carter's response was written on 5 February 1977. (See Carter, p. 50 and The Times, 18 February 1977), p. 9.

7. The New York Times, 23 February 1977, p. 1.

8. Trade Act of 1974, Pub. L. No. 93-618, § 88 Stat., 1978 (1975), codified in 19 U.S.C. §§ 2101-2487. Title IV, § 402 links Jewish emigration to East-West trade. Also see, Helling, Lisa, "U.S. Human Rights Policy Toward the Soviet Union and Eastern Europe During the Carter Administration," Denver Journal of International Law, Vol. 9 (Winter, 1980) pp. 85-118.

9. Ibid.

10. For a description of numerous non-governmental organizations see, Garling, Marguerite, The Human Rights Handbook: A Guide to British and American International Human Rights Organizations (London: MacMillan Press Ltd., 1979).

11. Wiseberg, Laurie S. and Scoble, Harry M., "Monitoring Human Rights Violations: The Role of Nongovernmental Organizations," in Kommers, Donald P. and Loescher, Gilbert D., Human Rights and American Foreign Policy (London: University of Notre Dame Press, 1979), pp. 183-4.

12. Thompson, Kenneth, "New Reflections on Ethics and Foreign Policy: The Problem of Human Rights," The Journal of Politics, Vol. 40, no. 4 (November 1978), p. 984.

13. Carter, pp. 141-2. Also, The Sunday Times, 20 February 1977.

14. The Times, 19 July 1977.

15. Brzezinski, Zbigniew, Power and Principle: Memoirs of the National Security Advisor, 1977-1981 (New York: Farrar, Straus, Giroux, 1983), p. 17.

16. Ibid, p. 124.

17. Many of Brzezinski's writings justify this impression. In 1973 he stated that a "return to one-man rule is...to be expected. Collective leadership has not been the norm in the Soviet system, but rather a reaction to the excesses of Stalin and the unpredictabilities of Khrushchev....Soviet officials by and large prefer the presence of a strong man to the uncertainties of collective rule; the preference is already reflected in the inclination to rehabilitate Stalin himself." Brzezinski, Zbigniew, "U.S.-Soviet Relations" in Hoffman, Erik P. and Fleron, Frederic J., Jr., (ed.). The Conduct of Soviet Foreign Policy (New York: Aldine Publishing Co., 1980), p. 318. Also see, Brzezinski, Zbigniew, "Soviet Politics: From the Future to the Past?" in Cocks, Paul and Daniels, Robert V. and Heer, Nancy Whitteir, The Dynamics of Soviet Politics (Cambridge, MA: Harvard U. Press, 1977), pp. 337-351, 414-415.

18. Brzezinski, Power and Principle, p. 7.

19. Brzezinski, Zbigniew, Alternative to Partition: For a Broader Conception of America's Role in Europe (New York: McGraw Hill, 1965), pp. 89-90. Given this description of the criteria for East-West relations, one could justifiably argue that Brzezinski must have considered Carter's speech, on 7 June 1978, superfluous. During that speech at the US Naval Academy, Carter stated that the United States was prepared for a course of cooperation or confrontation with the Soviet Union. According to Brzezinski, the former would be highly unlikely (except perhaps in economic relations). See Carter, pp. 229-30.

20. Brzezinski, Power and Principle, p. 124. This view is supported by Lacquer, Walter, "The World and President Carter," Commentary, Vol. 65, no. 2 (February 1978), p. 57. It would be inappropriate to infer that concern for human rights and the enhancement of American power were mutually exclusive to Brzezinski. On the 30th anniversary of the Universal Declaration of Human Rights, 6 December 1978, Brzezinski delivered an address in the East Room of the White House in which he described the significance of the issue of human rights. He stated that "human rights is the genuine, historical inevitability of our times...human rights is a central facet in America's relevance to this changing world...there has been progress in the effort to enhance the human condition insofar as human rights are concerned...[and human rights is the] central form in which mankind is expressing its new political awakening." Brzezinski, Power and Principle, p. 127.

21. Ibid, p. 49.

22. Ibid, p. 143.

23. At the beginning of 1974, the executive branch of government employed only one full-time human rights officer--at the State Department's Bureau of International Organization Affairs. The officer was concerned with United States' policy in the United Nations, rather than with incorporating human rights into foreign policy planning.

24. This was also in response to the 1974 Foreign Assistance Act, amended, Section 502B, which included a "Sense of Congress" limitation on US security assistance

to nations who were gross violators of internationally recognized human rights standards. Section 116 restricted development assistance. See, Foreign Assistance Act of 1961 as amended at s 502B, 22 U.S.C. s 2304 (1979).

25. Cohen, Robert, "Human Rights Decision-Making in the Executive Branch: Some Proposals for a Coordinated Strategy," in Kommers, Donald P. and Loescher, Gilbert D., Human Rights and American Foreign Policy (London: University of Notre Dame Press, 1979), p. 231.

26. Derian was sworn into office by Carter in August 1977.

27. Vance, Cyrus, Hard Choices: Critical Years in America's Foreign Policy (New York: Simon and Schuster, 1983), p. 41. During 1977, this group opposed loans to Guinea and postponed loans to South Korea, Paraguay and Nicaragua because of their inadequate human rights performances.

28. Section 502B was amended again for this purpose. See, U.S. Department of State, Report on Human Rights Practices In Countries Receiving U.S. Aid, submitted to the Committee on Foreign Relations (US Senate) and the Committee on Foreign Affairs (US House of Representatives) 8 February 1979 (Washington: U.S. Government Printing Office 1979).

29. The Helsinki Commission is described in greater detail below.

30. Cyrus Vance, Secretary of State, Law Day Address on Human Rights Policy, Delivered at the University of Georgia Law School on 30 April 1977. See Kommers and Loescher, pp. 300-315.

31. Vance, p. 46.

32. The international Bill of Human Rights consists of: the United Nations Charter, Universal Declaration of Human Rights (1948), International Covenant on Economic, Social and Cultural Rights (1966), International Covenant of Civil and Political Rights (1966). Ironically, the US is not a signator to either covenant. Carter signed both of these on 5 October 1977, but they have not been ratified by Congress. See Derian, Patricia M., "Human Rights in American Foreign Policy," Notre Dame Lawyer, Vol. 55, no. 2 (1980), pp. 264-80.

33. Kommers and Loescher, p. 302.

34. Presidential Directive 30 (PD-30) was signed by President Carter on 17 February 1978 and established the following criteria for a human rights policy:

- 1) The priorities were to reduce governmental violations of the integrity of the person and to enhance civil and political liberties on a world-wide basis.
- 2) Positive incentives for improvement (such as increasing aid) were preferable to punitive measures.
- 3) The US would not supply violating governments with equipment for domestic policing activity except in extraordinary circumstances.
- 4) Human rights initiatives in international financial institutions would be balanced such that the US interest in maintaining them as economic instruments would not be undermined.

See, Brzezinski, Power and Principle, p. 126.

35. Ibid, pp. 37-8. However, Brzezinski does emphasize that, "On most issues, at most times, we were in basic agreement....We were united in a commitment to our human rights policy." p. 38.

36. Ibid. Various discussions with low-level State Department officials during 1984, revealed that differences between the National Security Council and State Department are commonplace, but these debates are, at times, constructive.

37. Ibid, p. 43.

38. Vance, p. 316.

39. Cohen, p. 217.

40. See Wiseberg and Scoble, pp. 196-7, who present an interesting example of how the Nazis manipulated the private diplomacy approach of the International Committee of the Red Cross (ICRC). The ICRC did not realize that

Sachsenhausen was used, not as a proper medical facility, but as a concentration camp. Furthermore, the ICRC did not realize that the Aushwitz they visited was 3 miles from the real Aushwitz and by not exposing this deception, "lent its respectability to Hitler's Third Reich." p. 197. Richard Nixon commented on the human rights issue by stating that the United States "should make human rights a top priority private issue but not a public issue." Nixon, Richard, "Superpower Summitry," Foreign Affairs Vol. 64 no. 1 (Fall 1985), p. 9.

41. Brzezinski, Power and Principle, p. 55.

42. Much of the blame can go to the Soviet leaders who have until very recently considered any mention of human rights as an attack on their political system. See Pravda, 12 February 1977, p. 4, also in Soviet News (London: Press Department of the Soviet Embassy), 15 February 1977, p. 1.

43. Brzezinski, Power and Principle, p. 29.

44. Vogelgesang, Sandy, "Diplomacy of Human Rights," International Studies Quarterly, Vol. 23, no. 2 (June 1979), p. 240.

45. Muravchik, Joshua, The Uncertain Crusade: Jimmy Carter and the Dilemmas of Human Rights Policy (London: Hamilton Press, 1986), p. xix.

46. Szulc, Tad, "Carter and Human Rights: Facing the Contradictions," Saturday Review (14 October 1978), p. 11.

47. Those who think that American security and economic interests did not clearly predominate over human rights are few. See Forsythe, p. 44.

48. Vance, pp. 127-8.

49. Kommers and Loescher, p. 374.

50. Ibid, p. 375.

51. Adam, Elaine P. (ed.) American Foreign Relations, 1978: A Documentary Record (New York: New York University Press, 1979), p. 105.

52. Adam, Elaine P. (ed.) American Foreign Rela-

tions, 1977: A Documentary Record (New York: New York University Press, 1979), pp. 99-100.

53. Brzezinski, Power and Principle, p. 127.

54. Loescher, G.D., "Human Rights and U.S. Foreign Policy--Idealism and Realism in Conflict," Round Table, Vol. 69 (1979), pp. 337-8.

55. Loescher, p. 342.

56. International Herald Tribune, 15 October 1983, p. 2. Also see, Cohen, p. 229.

57. Ibid.

58. Ibid.

59. The New York Times, 14 February 1986, p. 1.

60. Ibid., 23 January 1986, p. 5; 27 January 1986, p. 26; 26 February 1986, p. 1. See also, Lande, Carl H. and Hooley, Richard, "Aquino Takes Charge," Foreign Affairs, Vol. 64, no. 5 (Fall 1986), pp. 1087-1107.

61. The New York Times, 20 February 1986, p. 1.

62. The debate, which goes well beyond the focus of this thesis, is in part over the concept of "universalism" in foreign policy which represents the notion that the US has vital interests in every region of the world. Alan Tonelson, critical of this viewpoint, has written that in some cases, "the question of openly aiding anticommunist insurgents [and governments] indicates a widespread tendency to try to ground U.S. foreign policy in essentially abstract, universal notions of consistency, fairness, and simple symmetry, or in equally all-encompassing but intangible theories of international politics. Much less attention has been paid to anchoring policy to a concrete idea of national interest--a finite set of intrinsically important goals either essential or beneficial to the country's survival, its prosperity, the psychological well-being of its population, or a combination of these." Tonelson, Alan, "The Real National Interest," Foreign Policy, Vol. 61 (Winter 1985-6), pp. 49-72. See also, Hoffmann, Stanley, Primacy or World Order? (New York: McGraw-Hill, 1978), p. 264; Manning, Bayless, "Goals, Ideology and Foreign Policy," Foreign Affairs, Vol. 54, no. 2 (January 1976), pp. 271-84;

Paarlberg, Robert L., "Domesticating Global Management," Foreign Affairs, Vol. 54, no. 3 (April 1976), pp. 563-76.

63. Vance, p. 318.

64. Ibid, p. 316.

65. See, U.S. Department of State, Report on Human Rights Practices In Countries Receiving U.S. Aid, 8 February 1979, p. 549.

66. Carter, p. 436.

67. Brzezinski, pp. 371-2.

68. Ibid, also Vance, pp. 314-333. Vance writes, "Zbig concluded that the State Department had given up on the shah and was 'soft' on a military solution to the crisis. In a situation quite different from the close and harmonious cooperation on the Middle East--although some of the same people were involved in both--an estrangement grew up between the White House and my key advisors." p. 328.

69. Carter, p. 218.

70. Shcharansky was accused and later convicted of espionage for the United States, a charge Carter wholeheartedly denied. Shcharansky was active in relaying information about Soviet dissidents to Western journalists. See, The New York Times, 16 July 1978, p. 3. Ginzburg was convicted of anti-Soviet agitation (Article 70 of the Criminal Code of the RSFSR) and sentenced to 8 years in a strict labour camp followed by 3 years of internal exile. He left the USSR in April 1979 through a prisoner exchange with the US.

71. Carter, p. 222.

72. "The Conflict Between Nuclear Disarmament and Human Rights," New Yorker, Vol. 54 (31 July 1978), pp. 21-2.

73. Ibid, p. 21. Kissinger later accused the Carter administration of using impotence as the ruling principle of foreign policy. See Barclay, Glen St. "The Uses of Impotence: the Foreign Policy of the Carter Administration," World Review, Vol. 19, no. 4 (1980), pp. 55-66.

74. The Times, 2 March 1978 and 30 May 1978. See also, "SALT and Human Rights," America, Vol. 138 (11 February 1978), pp. 91-2.

75. Vance, p. 53

76. The five were Aleksandr Ginzburg, Georgii Vins with his wife and five children, Valentin Moroz, Eduard Samuilovich Kuzentsov, and Mark Dymshits.

77. The SALT II treaty was not ratified by Congress for a number of reasons: Senator Henry Jackson's subcommittee on arms control spearheaded an anti-ratification campaign culminating in the Committee for the Present Danger which claimed that SALT II was too advantageous for the Soviet Union; a number of Soviet troops were revealed in Cuba, although they had existed there for a number of years; and finally, the Soviet invasion of Afghanistan, in December 1979, sealed the coffin on SALT.

78. Carter, p. 259.

79. Jewish emigration figures are as follows (Carter, p. 149): 1976 - 14,261, 1977 - 16,736, 1978 - 28,864, 1979 - 51,320, 1980 - 21,471, 1981 - 9,447.

80. Ibid, p. 260.

81. Ibid, p. 149.

82. Derian, Patricia M., "Human Rights and American Foreign Policy," Universal Human Rights, Vol. 1, no. 1 (January-March 1979), p. 7.

83. Wiseberg and Scoble, p. 181.

84. Foreign Assistance Act of 1961 (also termed the International Security Assistance and Arms Export Control Act) as amended at ss 101, 102, 22 U.S.C. ss 2151, 2151-1 (1979). See also Derian, Notre Dame Lawyer, pp. 270-1.

85. Foreign Assistance Act of 1961 as amended at s 502B, 22 U.S.C. s 2304 (1979).

86. Ibid, s 116, 22 U.S.C. 2151n (1979).

87. Wiseberg and Scoble, pp. 179-208.

88. Loescher, G.D., "Carter's Human Rights Policy and the 95th Congress," The World Today, Vol. 35 (1979), pp. 150-1.

89. The Carter administration was often accused of a hypocritical human rights policy because of US support for authoritarian, "right-wing dictatorships." See Farer, Tom J., "On a Collision Course: The American Campaign for Human Rights and the Anti-Radical Bias in the Third World," in Kommers, Donald P. and Loescher, Gilbert D., Human Rights and American Foreign Policy (London: University of Notre Dame Press, 1979), p. 259 and 264. Carter was aware of these accusations and vowed to alter the predominantly anti-communist strategy which sheltered "right-wing monarchs and military dictators." (Carter, p. 142). As demonstrated in the previous examples, he was not entirely successful.

90. Forsythe, p. 45.

91. Ibid.

92. Loescher, The World Today, p. 157. For comments on the possible reciprocal effects of economic sanctions see, Fraser, Donald M. and Salzberg, John F., "Foreign Policy and Effective Strategies for Human Rights," Universal Human Rights, Vol. 1, no. 1 (January-March 1979), p. 16. Also, Burnham, James, "Do-Good as Foreign Policy," National Review, Vol. 29, no. 1, (7 January 1977), p. 23. International law does not provide enough flexibility for economic punishment for human rights abuse. See Forsythe, Universal Human Rights, p. 46.

93. Szulc, p. 11.

94. Section 112(a) of the (US) Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. s 1711) in Derian, Notre Dame Lawyer, pp. 273-4.

95. Brownlie, p. 111.

96. Brzezinski, Power and Principle, p. 433.

97. Ibid.

98. Ibid.

99. Sakharov, Alarm and Hope, p. 44. The physicist Andrei Sakharov, is perhaps the best known dissident in

the Soviet Union. He worked for 20 years on developing the Soviet hydrogen bomb, but by 1957, he began to disassociate himself from further responsibility for radioactive contamination and explosions by requesting Nikita Khrushchev (then Premier) to discontinue needless atmospheric nuclear testing.

He spearheaded a "human rights movement" in the 1960's through active criticism of Soviet repression of personal freedom through his work, Progress, Co-Existence and Intellectual Freedom (New York: New York Times Company, 1968). In 1975, he won the Nobel Peace Prize. After years of interrogation sessions and strict observation, Soviet authorities exiled Sakharov to Gorki, a provincial town outside Moscow,, in 1980. The circumstances surrounding his release from exile in December 1986 are discussed in Chapter Six. See, The Times, 27 May 1983, The Guardian, 19 June 1983, International Herald Tribune, 21 May 1983.

100. Ibid, pp. 46-8.

101. Ibid, p. 50.

102. The Times, 18 February 1977, p. 9.

103. Ibid, 19 February 1977, p. 1.

104. Ibid, 29 January 1977, p. 4.

105. A letter from Brezhnev to Carter on 25 February 1977, stated that the USSR would "not allow interference in our internal affairs, whatever pseudo-humanitarian slogans are used to present it...." See Brzezinski, Power and Principle, p. 155.

106. Ibid, p. 156.

107. Ibid, p. 126.

108. For example, see, Ninth Semiannual Report by the President to the Commission on Security and Cooperation in Europe, 1 June 1980 - 30 November 1980, in Kavass and Granier, Series II, Book 2, p. 1.

109. U.S. Congress, Commission on Security and Cooperation in Europe, Basket Three, Implementation of the Helsinki Accords: Hearing Alexander Ginzburg on the Human Rights Situation in the U.S.S.R., 95th Congress, 1st session, 11 May 1979.

110. Carter, pp. 144-5.
111. Goldberg periodically advised Carter during the Middle East talks. Carter consistently applied his human rights convictions throughout the Camp David talks by upholding the Palestinian right to a homeland.
112. Reisman, Michael, "Diplomacy of the Possible: The Pragmatism of Human Rights," The Nation, Vol. 224, no. 18 (7 May 1977), p. 555.
113. The Scotsman, 24 June 1977, also Pravda, 18 March 1978, p. 4 in Current Digest of the Soviet Press, Vol. 30, no. 11 (1978), p. 16.
114. Financial Times, 24 June 1977.
115. Ibid.
116. Concluding Document of the Belgrade Conference, 78 Department of State Bulletin 43 (1978); 17 International Legal Materials 1265 (1978).
117. Pravda, note 107.
118. The National Security Council was organized into two general committees: the Policy Review Committee for foreign, defense and international economic issues and the Special Coordination Committee for issues of intelligence, arms control and crisis management. They were chaired by Vance and Brzezinski, respectively.
119. Brzezinski, Power and Principle, p. 297.
120. Implementation of the Helsinki Accord, Sixth Semiannual Report by the President to the Commission on Security and Cooperation in Europe, Special Report No. 54, December 1, 1978 - May 31, 1979, Bureau of Public Affairs: United States Department of State.
121. Implementation of the Helsinki Accord, Seventh Semiannual Report by the President to the Commission on Security and Cooperation in Europe, Special Report No. 62, June 1, 1979 - November 30, 1979, Bureau of Public Affairs: United States Department of State.
122. Brzezinski, Power and Principle, p. 299.

123. On the state of Soviet energy supplies, the CIA has been particularly off-target. In the words of Blair Ruble who recalled Marshall Goldman's work in this area, "at one time CIA experts told us that Soviet petroleum exports would begin tapering off in 1975....When that did not happen, they changed their prediction to 1976, and then 1978, and more recently 1979 and 1980. In 1977, the CIA predicted that Soviet oil production would peak in 1981, with the output for Siberia stabilizing at around 5 million barrels per day. Siberian oil fields are now [1981] producing 6 million a day." Ruble, Blair A., "Muddling Through" in Hoffman, Erik P. and Laird, Robbin F., The Soviet Polity in the Modern Era (New York: Aldine Publishing Co., 1984), p. 907. For other essays with more optimistic assessments of Soviet economic independence see, Johnson, D. Gale, "Soviet Agriculture and United States--Soviet Relations," Current History, Vol. 73, no. 430 (October 1977), pp. 118-22, 133-4; North, Robert H., "The Development of South Asia," Ibid, pp. 123-7, 136-8; Hohmann, Hans-Hermann, "The Place of Economic Policy Objectives on the List of Soviet Political Priorities" in Hohmann, Hans-Hermann and Nove, Alec and Vogel, Heinrich, Economics and Politics in the USSR: Problems of Interdependence (London: Westview Press, 1986), pp. 41-57.

124. Former Special Counsel to President Kennedy (1961-4), Theodore Sorenson, summarized this reality in 1974, but his insight is still valuable in the 1980's. In reference to the debate over granting Most-Favored-Nation (MFN) trading status to the Soviet Union, he stated: "it is doubtful that a substantial expansion of trade with the United States is either so promising or so desperately needed by the Soviet Union, or so seriously affected by our withholding of MFN or even export credits, that the Kremlin would determine its policy in any area--emigration, other internal controls, detente or even trade itself--on the basis of this Amendment's success or failure. The steady growth of the Soviet economy during the cold-war years, despite a barrage of Battle Act, Trading with the Enemy Act and other U.S. restrictions, reflects both its traditional refusal to become too dependent upon American imports and its ability to find adequate markets and sources of supply in Europe, Japan and elsewhere." Sorensen, Theodore, "Most-Favored-Nation and Less Favorite Nations" in Foreign Affairs, Vol. 52, no. 2 (January 1974), pp. 277-8. For an interesting counter-argument that "economic diplomacy" has not yet been fully tested see, Huntington, Samuel P., "Trade,

Technology and Leverage: Economic Diplomacy," Foreign Policy, Vol. 32 (Fall 1978), pp. 63-80.

125. Brzezinski, p. 300.

126. Pravda, 22 May 1985, p. 3 in Current Digest of the Soviet Press, Vol. 37, no. 21 (19 June 1985), pp. 18-19.

127. Chalidze, Valery, To Defend These Rights: Human Rights and the Soviet Union (London: Collins and Harvill Press, 1975).

128. These comments were influenced by two works: Kennan, George F., American Diplomacy, 1900-1950 (Chicago: University of Chicago Press, 1951) and Kennan, George F., "Morality and Foreign Policy," Foreign Affairs, Vol. 64, no. 2 (1985), pp. 205-218.

129. Kennan, "Morality and Foreign Policy," p. 209.

130. Fascell, Dante, "Did Human Rights Survive Belgrade," Foreign Policy, Vol. 31 (Summer 1978), pp. 104-118.

CHAPTER 6

THE HELSINKI FINAL ACT INTO THE GORBACHEV ERA

Since the signing festivities in Finlandia Hall in Helsinki in August 1975, a plethora of issues has tested the endurance of the Final Act, the stability of international relations and the constancy of the Soviet-American relationship. In the span of 13 years, the citizens of the United States have elected two presidents while the people of the Soviet Union have been led by three general secretaries. Throughout that period, the importance of the Final Act for security and cooperation in Europe has been frequently reiterated and the "Helsinki process" appears to have exceptional vitality. In fact, because the content of the Helsinki process has grown to the point of unmanagability, current and future studies are likely to be limited to the most specific of provisions contained within the Final Act. By necessity, this chapter is confined to three sections which pose questions that strike the author as most pertinent the thesis that genuine accommodation (as opposed to political posturing) between the superpowers in the area of human rights is improbable. Firstly, has the Soviet leadership shifted its emphasis on, or interpretations of, the Final Act as the Helsinki process has grown since the Belgrade Follow-up Meeting of 1980? Secondly, what visible

differences are evident in Gorbachev's policy on human rights, at the time of writing, from previous Soviet positions? Finally what mistakes have tainted US policy in pressing for changes in human rights in the Soviet Union?

Topics of human rights are still a major part of Soviet-American relations and over a decade after the completion of the Final Act, there are many more questions concerning implementation than answers about the meaning of its provisions. Thus, this chapter is only a cursory study of some of the more pressing problems. It is not possible here to examine all of the developments related to human rights and the Final Act since 1980, but observations of some of the more contentious issues, even in such a limited context, will help to indicate that the author's pessimism warrants further consideration, especially during the most recent period of reform in Soviet domestic politics.

The second CSCE follow-up meeting in Madrid lasted for nearly three years (11 November 1980 - 9 September 1983) before a concluding document was signed.¹ The meeting was, as in the case of the Belgrade follow-up conference, dominated by controversies over Principle Seven and Basket III, which many Western representatives regarded as the most potentially significant provisions of the Final Act. At the same time, many American representatives specifically downplayed the longstanding Soviet assertion that the Final

Act confirmed the post-war political and territorial arrangement of Europe. For example, in a speech at the Madrid meeting, the head of the US delegation, Max Kampelman, referred to the post-war peace conferences, but argued that a broad improvement in human rights was implicit in the peace settlement. In other words, Kampelman merged the Soviet emphasis on inviolability of frontiers with the Western concern for human rights. He stated:

Historians frequently refer to the 'myth' of Yalta. They say that to equate Yalta with spheres of influence is to misread history. The Yalta Agreement was based on the assumption that the peoples of Eastern Europe were to be guaranteed free elections so that they might choose their own governments and those governments would then be free to select their own alliances. That did not take place. The partition of Europe along predetermined lines cannot and should not become a permanent part of our geopolitics. The myth of Yalta, together with its concomitant so-called 'Brezhnev Doctrine' is a danger to peace. It stands in the way of necessary peaceful change and can only, if it remains, produce later upheavals which will threaten our stability, in the East as well as in the West. Change will come.²

George Shultz, Secretary of State for President Ronald Reagan was even more emphatic when he told the delegates in Madrid that:

The division of Europe is today, as it always was, unnatural and inhuman. Therefore, the [Soviet] attempt to keep Europe divided by raw power is inevitably a source of instability. There can be no lasting security or cooperation in Europe as long as one government is afraid of its own people and seeks reassurance in imposing a system of force on its people--and on its neighbors.³

Both Kampelman and Shultz postulated that some major internal political changes were necessary for the East European nations to comply with the Final Act. This assertion, certainly not new within the history of the CSCE, was staunchly countered by Soviet Foreign Minister Andrei Gromyko who stated:

Our country consistently opposes the carrying over of ideological disagreements into relations between states....The course and results of the Madrid meeting have shown once again, and in no uncertain terms, that attempts to put pressure on the socialist countries and to interfere in their internal affairs are futile...if some people raise their hands against our moral, social and civic values, if in their hostility toward socialism they deliberately whip up tension in the world, well, actions of this sort have met with a fitting rebuff and will continue to do so.⁴

By 1983 then, little had changed in the doctrinal arguments emanating from the opposing corners of Europe. The future of the CSCE was a larger question mark than ever before as Soviet-American relations sunk to the lowest ebb since the cold war era. Soviet officials criticized President Reagan's alleged "'crusade' against communism,"⁵ while one American specialist characterized the deterioration in relations as a "march toward war."⁶

But a highly regarded result, at least from the Western perspective, was the unanimous agreement by the participants in Madrid to hold meetings of specialists in seven major areas, three of which would focus on humanitarian issues

(human rights, human contacts and cultural exchanges). Ultimately these conferences were held in Ottawa (7 May to 17 June 1985), Budapest (15 October to 25 November 1985) and Bern (15 April to 27 May 1986). Another full follow-up meeting was approved for 4 November 1986 in Vienna.⁷

The decision to have specialized conferences was a compromise based upon proposals from the neutral and non-aligned nations intended to break costly and time-consuming deadlocks at Madrid. The intent should not be scrutinized, but the potential long-term consequences of subdividing the follow-up procedure require some elaboration. Was the decision to convene meetings of experts on specific issues in the Final Act beneficial for the Helsinki process? While the full effects of this decision will not be apparent for some time, there are many negative aspects to the compromise.

For example, the original decision in 1972 to create three baskets in the future Final Act allowed each of the thirty-five participating nations to emphasize sections of their choosing; despite the fact that the Final Act ultimately became a single, unified document, this was not inevitable in 1972. Once again, the most relevant example for this study has been Soviet emphasis on the principles confirming borders and political systems in Eastern Europe and cooperation through Basket II, while the US has accentuated principles of human rights and improved contacts through

Basket III. Even within Principle Seven itself, spokespersons for the US Government have tended to emphasize some aspects (such as the Covenant on Civil and Political Rights) over others (such as the Covenant on Social and Economic Rights, which is more commonly cited by Soviet representatives). The fact that the Final Act includes a variety of provisions that satisfied thirty-five nations was described by one former Soviet diplomat (during an informal discussion at the Institute of Knowledge in Moscow in January 1988), as its greatest strength. In reality, however, differences in interpretation and emphasis have been incorporated into the Final Act, thus making the document vague and weak.

Through the conferences of specialists, political leaders have been able to play up the meetings that they consider important and play down those that they view as insignificant. This has been especially clear within the Soviet Union where the greatest emphasis has been placed on the Conference on Confidence and Security-building Measures and Disarmament in Europe, initiated in Stockholm on 17 January 1984.⁸ In fact, this was a consistent action on the part of Soviet officials who have, as noted previously, presented freedom from concern about nuclear war and certain death as the ultimate human right. Through a strictly state-controlled media, Soviet commentators consistently downplayed the significance of the meeting of experts in Ottawa because

it focused on the Soviet record on human rights. Selective reporting was thereby simplified through the subdivision of the "Helsinki process." Some meetings were given much greater attention by the media than others, depending upon the main topics under discussion.⁹ Examination of deliberations in Ottawa indicate why the Soviet media were relatively silent about events there.

As mandated by the Madrid Concluding Document, delegates from thirty-five nations met in Ottawa for five weeks during the summer of 1985 (not counting the two week preparatory conference from 6 March to 23 April). The discussion about human rights proved to be the most extensive ever within the CSCE, although it was held in closed session, and further illustrated the great differences in ideology between the governments of Western Europe and those of Eastern Europe. It was made ever more clear that the Soviet leadership considers the post-war territorial and ideological borders permanent in Europe to be permanent.

The sessions did include lively debate over a number of specific topics. The Soviet delegation began its discussion with the longstanding assertion that each nation was to discuss its own record on human rights only.¹⁰ This claim was rejected outright by the majority of other nations and the debate began, with the head of the Soviet delegation, Vsevolod Sofinsky, upholding what Soviet commentators have

presented since the early 1970's as the ultimate human right--the right to life in peace.¹¹ Emphasizing this allegedly paramount right, Sofinsky claimed that the overriding objective was to secure a positive political environment in Europe which would offer greater opportunities for citizens to enjoy their rights. In other words, it was up to the West European nations to initiate conciliatory policies (i.e. in arms control) which would improve human rights in the Soviet Union. Since the argument was not new, a more refined counter-argument could have been expected. This was presented by Richard Schifter, head of the US delegation. He responded:

let it be clearly understood...that in our view respect for human rights in individual states contributes to the improvement of international relations. By the same token, disrespect for human rights contributes to the deterioration of international relations....When we use the term 'human rights,' we describe the relationship between a government and its own citizens. Does it stand to reason that if foreign countries establish friendly relations with a particular government that government, in turn will--so to speak--reward the foreign countries by dealing kindly with its own citizens? And does it further stand to reason that if international relations are tense, the foreign countries will be punished by the government in question through the adoption of repressive measures against its own citizens? Would this not mean that a government holds its own people hostage, treating them well or poorly depending on the way other countries treat it in international affairs?¹²

Shifter then set the history of Soviet-American relations into a context which illustrated that Soviet domestic reform

typically preceded improvements in relations between the two nations.

This claim may be taken seriously by the present Soviet leadership which, as will be discussed later in this chapter, has gone to great lengths to present itself to other world leaders as dynamic and in the forefront of domestic reform.¹³ Shifter presented an interesting, but less than definitive argument about Principle Seven, which does state that human rights and fundamental freedoms are an "essential factor" for peace. The debate over which should come first, international reconciliation or domestic reform, or whether they should more properly run in tandem, still rages. It is not simply a problem of interstate relations, for as presented in Chapter Four, many Soviet dissidents assume that a relaxed international climate logically connotes leniency at home. Since this has not always held true, the Soviet argument, even when accepted in its entirety, does not mean that human rights will be applied within the Soviet Union in a way that Western leaders apparently desire, as witnessed with the treatment of Helsinki Monitors in the Soviet Union. Indeed, the only way that Western policy-makers could be certain of the desired domestic change would be to require and witness it before making international agreements. The Soviet leaders may be closer to adopting the Western point of view as articulated in a news conference during the Reagan-Gorbachev summit in

Reykjavik in October 1986 when Soviet officials stated that changes in domestic affairs were consistent with adaptation in foreign policy.¹⁴

Sofinsky did not remain silent when the Soviet human rights record was attacked. One week into the meeting in Ottawa, a heated debate took place among representatives of Britain, the Federal Republic of Germany and the Soviet Union. British delegate Anthony Williams asserted that the Soviet record of compliance with the Final Act was extremely poor, specifically in the area of civil and political rights.¹⁵ This incited Sofinsky to launch into a diatribe against British social and economic problems including unemployment illiteracy and inadequate maternity leave. He also attacked official British policy toward the Irish Republican Army (IRA) and, for the greater part of his thirty-seven minute speech compared former IRA leader, Bobby Sands (who died while on a hunger strike in prison in 1981) to Andrei Sakharov, suggesting that Sands was potentially one of the most famous figures of the 20th century.¹⁶ Williams responded that Sands was a convicted terrorist and that no leader in the West criticized the Soviet government for executing three Armenians who had formerly placed a bomb in a Moscow metro station.¹⁷ Continuing their debate, Williams complained of discrimination against Soviet Jews, while the national rights of Scots and Welsh preoccupied Sofinsky.¹⁸

Either in an attempt to soften perceptions of the Soviet secret police or to present a defiant attitude on the role of other nations in Soviet domestic politics, Sofinsky brought a general of the KGB, Sergei Kondrashev, to refute allegations of anti-Semitism in the Soviet Union and to assert that there was full freedom of religion there.¹⁹ Ultimately, the Soviet representatives claimed that their nation was in full conformity with the Final Act while the record of Western nations allegedly fell far short.

The US representative, Richard Shifter, addressed a number of the Soviet complaints. The crux of his argument was that the distinction between political and economic rights was an artificial one, and he emphasized that the changes which Americans most desired did not require a new political system in the Soviet Union.²⁰ His comments were not entirely accurate though, because he called for unlimited freedom of expression with corresponding restrictions on the role of officials of the Soviet state in the lives of Soviet citizens.

In one of the most extensive sessions of self-criticism from any diplomat in Ottawa, Shifter outlined the problems of unemployment and homelessness in the United States.²¹ But his explanation for the US refusal to ratify the UN Covenants on Human Rights was not persuasive. He based the decision on the illogical argument that, since other nations that were

partners to the agreement had violated it, Poland specifically, it was worthless.²² And in a broad comparison of the qualities of life in the Soviet Union and United States (and taking into account Soviet hardships since 1917), Shifter concluded that the actual Soviet performance in guaranteeing social and economic rights was poor in the areas of consumer goods, agriculture, women's rights, medical care and in equal access to a host of goods that are more commonly available to the Soviet elite.²³

Emphasizing the major differences which still existed between the East and West European delegations, two drafts of the final report of the Ottawa meeting were submitted. Ottawa Meeting of Experts 47 (OME 47) was presented by 17 Western delegations including the members of the Atlantic Alliance and European Economic Community.²⁴ It was a much more extensive document than OME 48, submitted by representatives of the Warsaw Pact.²⁵ One major Soviet objection was centred on a sentence which noted "grave concern...at serious violations of human rights in some participating States,"²⁶ because that phrase was aimed at the East European governments. A compromise proposal, OME 49, was submitted by the neutral and non-aligned nations, but the Soviet delegation would not accept its call for a further meeting of specialists on human rights.²⁷ The Ottawa meeting thus ended

without a final document, but not without strong final impressions.

"The Nineteenth Semiannual Report by the President to the Commission of Security and Cooperation in Europe (1 April to 1 October 1985)" noted that "Soviet-bloc intransigence" prevented the creation of a final document.²⁸ But the report claimed that the meeting was productive in five ways: it allowed the Western delegations to single-out East European violations of the Final Act contrary to the latter's desire to relegate such matters to their own internal political systems; Western unity was further enhanced when seventeen nations tabled a collective final draft; representatives of the neutral and non-aligned nations again had joined the other West Europeans in condemning all violations of human rights; delegates from nations outside of Eastern Europe agreed that it was best to have no final document than one which ignored the major differences expressed during the meeting; and finally, the West Europeans left Ottawa with unity that would strengthen their position in Vienna during the next follow-up conference.²⁹

The official Soviet summation of the conference in Ottawa was written by the chief Soviet delegate Sofinsky for Izvestiia. He wrote:

It became clear at the very beginning of the conference that not all delegations had come to Ottawa intending to discuss the issues specified by

the Madrid mandate in a businesslike and constructive manner. From the outset, the delegations of the NATO countries, and above all the representatives of the US, exhibited a desire to turn the conference into a noisy 'show.'³⁰

Sofinsky continued:

Why was the conference unable to adopt a final document? The problem does not lie simply in the different approaches to the same concepts--approaches that are due to the fact that the countries represented at the conference belong to different social and economic systems--nor in the special features of their historical development. The chief reason is something else. The Western countries' delegations were well aware that it would be impossible in a final document to ignore the flagrant and massive violations of human rights in their countries.³¹

Sofinsky's tone was condemnatory, but in one of the most optimistic final assessments by a Soviet representative on a conference concerned with human rights, Sofinsky wrote that the Ottawa meeting did not end in failure. Rather, he claimed, "the mere fact that representatives of the thirty-five countries that signed the Final Act in Helsinki could come together and discuss the human rights situation is good."³² He also argued though that world public attention was drawn to the abuses of human rights in Western countries and the need to eliminate them.³³ And finally, Sofinsky pointed to the entirely positive desire of all the participants to continue the dialogue begun in 1972.³⁴ With Ottawa as a precedent, meetings in Bern and Budapest followed.

The primary goal for the US representatives at the Bern Human Contacts Experts Meeting was "to achieve better compliance on existing commitments."³⁵ This objective was central to the US negotiating position, not only from the beginning, but also at the very end of the meeting when the head of the US delegation, Michael Novak, was the only representative not to agree to a final text (effectively vetoing the concluding document) because it contained, in the view of the American leadership, too many loopholes and qualifications on top of the original commitments outlined in the Final Act.³⁶ The second major goal for the US delegation was "to examine how the human contacts provisions of Helsinki and Madrid had been implemented thus far."³⁷ Of special interest were problems of reunification of families, marriages between citizens of different states, travel for personal and professional purposes, trade union rights, tourism, youth and sport exchanges, postal, telephone and radio communications and a host of other issues involving the rights of religious groups and national minorities. The US and other West European delegations considered the free flow of people among all the nations of Europe the overriding theme of the meeting in Bern. According to Novak, the "discussion of problems was direct, and the Soviet response to criticism was not as confrontational as at previous meetings."³⁸ Severe attacks on the Soviet performance in the

areas above probably would not have been warranted anyway since the period leading up to the Bern meeting witnessed a dramatic growth in emigration from the Soviet Union, largely for the purposes of reuniting families.³⁹ The most famous figure permitted to emigrate was Shcharansky. The circumstances of his release are discussed later in this chapter.

Perhaps the Soviet leaders calculated that this timely period of leniency would deflect criticism from them at Bern. If so, they must have been disappointed, for in reality it justified further meetings through the Helsinki process where more unresolved cases could be raised. It is more likely that the Soviet leaders have come to the conclusion that such issues as the reunification of families and even emigration in some cases, are not matters that need be set in an ideological context. In other words, they have such "low-risk" potential for destabilizing domestic politics that refusing emigration is a greater nuisance (due to Western criticism) than completing the appropriate paperwork. Emigration will be discussed throughout this chapter, but here it is sufficient to note that there is much room for deflecting Western criticism, and Soviet policy-makers are increasingly realizing this.

As for the official Soviet reaction to the meeting, one commentator noted with displeasure that:

a number of Western delegations are stubbornly trying to turn the discussion in Bern into a kind of propaganda show. Some of them are constantly trying to teach us 'humanism'...[efforts are] made by the representatives of a state [the US] in which unemployment, surveillance, persecution of dissidents, racial discrimination and genocide against Indians have become standard fare.⁴⁰

This attempt to shift emphasis away from the Soviet record on human rights was assisted by the controversy over a final document for the Bern meeting. As in Ottawa, the neutral and non-aligned nations submitted a compromise known as the Bern Meeting of Experts 49 (BME 49). The compromise contained elements of both the earlier East and West European proposals. The US delegation had seemingly accepted it, but at 9:30 in the evening of the last day of the meeting, Novak informed the delegates that "after very careful review, my government cannot give its consent."⁴¹ Soviet indignation was made apparent by one Soviet journalist who stated that:

The United States said 'no.' Utilizing procedural rules [vote by consensus] and disregarding the Europeans' desire to preserve detente and the spirit of Helsinki, it imposed its diktat on the Bern meeting's participants. It is hard to remember an instance in the history of Helsinki forums when countries of both the West and the East have appealed jointly to the US to accept a compromise, to refrain from destroying an agreement reached with such difficulty....⁴²

Soviet authorities then published a copy of the draft in the journal, International Affairs.⁴³ Reactions in the Western press ranged from condemnation for the unilateral US action to praise for the success of the US delegation in defending

the ideals of the Final Act.⁴⁴ In any case, major differences between the Soviet and American delegations on the methods to expand human contacts were still apparent.

Of the three post-Madrid meetings on human rights, the Cultural Forum, held in Budapest in October and November 1986, was the most successful and the most unique. The sessions did begin with major differences on the agenda, with West European delegations proposing a three part agenda to consider: the dissemination of culture, international cooperation in the arts and flourishing of the creative process.⁴⁵ The Soviet representatives proposed consideration of broad topics of culture excluding the subject of "cultural freedom."⁴⁶ The final agenda created four categories for consideration. There were labelled "applied arts," "performing arts," "literature," and "mutual cultural knowledge."⁴⁷ The more specific agenda, with a final category related to cultural freedom, was a victory for the Western representatives. But an even larger success took place in a debate over the appropriate participants in the conference. By the beginning of the meeting, the East European delegates accepted the proposal that the delegations should include preeminent writers, performers and other artists as well as state bureaucrats and party officials.⁴⁸ This assured that political issues would not dominate the conference. Moreover, the largely apolitical nature of cultural exchanges

prevented the Budapest meeting from becoming a forum of ideological rhetoric rather than a platform for the projection and reconsideration of cultural achievements.

But there were still limits on how open a forum the Hungarian officials would permit. For example, they denied access to the meeting to non-governmental organizations, especially the US Helsinki Watch Committee and the International Helsinki Federation for Human Rights.⁴⁹ They were forced to hold their own cultural forum in Budapest despite the fact that, at least the spirit, if not the word of the Madrid document protected their right to be there. But the Western delegates learned much from this action for when Soviet spokespersons called for an international human rights conference in Moscow, they argued that access by non-governmental organizations of all kinds would have to be guaranteed which assured that they would continue to play an influential role in the Helsinki process, despite Soviet and East European suspicions about their objectives.⁵⁰

The fact that many East Europeans still questioned the real intent behind Western appeals for broader cultural exchanges, especially freer flows of information (which could allegedly become "psychological warfare") was evidenced in a question and answer exchange between East German art historian Lothar Bisky and the chairman of Boston public television, David Ives. The session proceeded as follows:

1. [Bisky]: What is meant by "free flow of information"?

Answer[Ives]: Literally, just what it says. the U.S. believes that greater understanding among peoples can only be achieved when there is the maximum possible freedom for the citizens of all countries to obtain the information they happen to want-- whether it is in the form of books, newspapers, magazines, technical journals, films, poems, religious tracts, radio and television broadcasts, or anything else, whether its source is domestic or foreign and whether or not the information is agreeable to those who govern the country in which the citizens live.

2. [Bisky]: Does not every country have the right to choose its own flow of information?

Answer[Ives]: We believe that every citizen of every country has the right and that no government should impose on any citizen any limit on information he may seek. It is the right of the individual we support, not the right of the government.

3. [Bisky]: If there were free flow of information, would this not lead to "intellectual imperialism," presumably because there would be a greater flow of information in one direction than in another?

Answer[Ives]: That is entirely a question of what the individuals in any country happen to want. If citizens from a country want more information from outside their borders, that is their free choice. If not, it is also their free choice.

4. [Bisky]: What information would flow back from the GDR to the US?

[Answer Ives:] Again, it is up to the free choice of individuals. Whatever they want is what they should be able to obtain.

5. [Bisky]: Is the information to be used to impose on our country your ideals?
 Answer[Ives]: By no means. It is to be used only as each individual from your country wants to use it. Our goal is only freedom of individual choice.
6. [Bisky]: Are you denouncing our form of communication?
 Answer[Ives]: Only if and to the extent that the individual in your country is not free to choose the information he wants. If he is free to choose, then we think his understanding will be advanced. If he is not, then his understanding will be more difficult.
7. [Bisky]: Is this free flow only a way to expand the American market for information?
 Answer[Ives]: That choice is to be made by individual decision. If the individual wants more information from the U.S. he should be allowed to obtain it. If he wants less, that is entirely his business.
8. [Bisky]: And last, are you not just bandying about the words "free flow of information"?
 Answer[Ives]: Most emphatically not. Freedom of speech, freedom of thought [sic], freedom of information--and their corollaries--absence of censorship, absence of restrictions, absence of any official orthodoxy--are absolutely basic to our American ideals and we are convinced that all men in any part of the world also want such freedoms, and that when these freedoms are available to all, understanding among all peoples will be within our reach.⁵¹

Despite those lingering suspicions, the head of the Soviet delegation, G.A. Ivanov, noted in one of the most positive assessments of any meeting held under the auspices of the Helsinki follow-up procedure that:

the discussion of the forum was held in a business-like and serious atmosphere, on the whole. It is perfectly natural that its participants held differing ideological and creative views. The joint interest in resolving major, real problems predetermined the cultural forum's positive results.⁵²

The American summary of the meeting was much more negative and accused the Soviet Union of, amongst other things: creating procedural roadblocks; boasting about cultural achievements; limiting artistic accomplishments to those which allegedly promoted peace; and attempting to isolate the US from Europe by referring to a "European cultural unity."⁵³ These actions did not prevent the head of the US delegation, Walter Stoessel, Jr., from presenting a largely favourable report to Congress which accentuated the ultimate broad range of discussion at the meeting and the advantages of having prominent personalities attend to diffuse potential political haranguing.⁵⁴ Although a final document was not agreed upon, the number of cultural exchanges throughout 1986 and 1987 were unparalleled since the early 1970's (although many of the cultural exchanges were negotiated during the Reagan-Gorbachev summit in Geneva in November 1985).⁵⁵ The most famous of these was the return of Soviet-born pianist Vladimir Horowitz to Moscow for a series of concerts in the spring of 1986.⁵⁶

What conclusions may be drawn from the meetings of specialists after the Madrid follow-up conference? First of

all, the conferences in Bern and Budapest were the most successful largely because they were less controversial from an ideological perspective. East and West European leaders could improve cooperation in these areas without major changes in political or legal principles. In some cases, such as in the performing arts, expansion could serve to highlight the intellectual and artistic achievements not only of a nation, but also of its political system. This competition for acceptance and praise may be the single most beneficial aspect of the Helsinki process. But this is not to say that there has been political accommodation among the political and economic governments of Eastern and Western Europe.

Second, the meeting in Ottawa must be regarded as the least profitable for all the participants. That conference dealt with ideological issues of human rights and revived the debate over what the concept "human rights" means and which government in Europe is most humane. The Soviet delegates did respond in kind to the specific complaints directed against them, thus creating a healthier dialogue, but ultimately they once again relied on the Final Act's guarantee of non-interference in internal affairs.

Finally, during the writing of this thesis, the second phase of the Vienna follow-up meeting had just concluded and a similar dialogue was perpetuated.⁵⁷ But even the prelimi-

nary meetings in Vienna had reinforced the fact that, for general improvement of human rights in Eastern Europe, especially of the type requested by Western delegations at Ottawa, changes will have to occur in the Soviet system. Soviet leaders have long indicated that any such change is an internal affair and would have to be initiated under the guidance of the CPSU without external meddling.

Much optimism of such an internal reform has been generated by Gorbachev since 1985 and increased significantly after the January Plenum of the Central Committee in 1987 and the 19th Party Conference in June 1988.⁵⁸ The following section explores only briefly some indicators that this optimism may be premature and that the potential changes will not alter the established Soviet stance in the Helsinki process.

GORBACHEV AND HUMAN RIGHTS

While it is difficult to assess the full scope and impact of Mikhail Gorbachev's leadership of the CPSU, a few preliminary indications on his approach to the Helsinki Final Act and human rights are possible. The full range of issues that encompass perestroika and glasnost', as discussed by Gorbachev and by individuals in the Soviet press, cannot be

represented here. Rather the focus in this section is on the relevance of these new concepts to the more specific problems in the area of human rights between the Soviet Union and the United States.

First and foremost, Gorbachev has supported the Helsinki process in a number of statements. His assertions of the permanence of the borders of post-war Europe have been emphatic, and he has maintained that the recognition of this reality would provide a more secure basis for cooperation through the Helsinki process. Certainly, Gorbachev perceived the decision by NATO representatives, made in December 1979, to station cruise and Pershing missiles in Europe as a threat to the territorial permanence of central and eastern Europe. His willingness to sign the Intermediate Nuclear Forces (INF) treaty, which reduces substantially the number of nuclear missiles in Europe represents, in part, the continuing Soviet desire to maintain territorial and strategic stability in Europe which had been enhanced through detente and the CSCE.

Second, Gorbachev has not avoided other topics included in the Helsinki process. In the humanitarian sphere, he has concentrated most on cultural exchanges and the reunification of families. These appear as areas where the greatest amount of "accommodation" seems possible because they are not overtly political in nature and involve relatively few people.⁵⁹ He has not, however, been willing to discuss

issues of political freedom in the Soviet Union with foreign leaders who demand changes allegedly dictated by the Final Act.

It must be asked here what perestroika and glasnost' mean for human rights in the Soviet Union? The Soviet leadership has used these terms more narrowly than is often recognized in the West. Recognition of this fact will answer many questions about human rights and the "Helsinki process."

Glasnost' can be translated as "publicity" or "openness." Through it, Soviet leaders hope to generate broader discussion about the inefficiencies in the Soviet system. Allegedly, a more open discussion about many problems of organization and performance will lead to essential political and economic restructuring, especially at the level of management (including both Party and non-Party supervisors). It is hoped that ultimately this will make the Soviet system function more efficiently or so it is hoped. Izvestiia commentator A. Druzenko has claimed that readers of the newspaper "correctly see it [glasnost'] as an effective instrument of public control and primarily of control over the activities of officials...."⁶⁰ Thus, in the long-term, glasnost' is synonymous with effectivenost' (effectiveness).

Underpinning the adoption of glasnost' is the assumption that inadequate communication on all levels of Soviet society has stifled Soviet economic performance. In some cases, lack

of information is apparently due to incompetence, while in other instances it is due to deliberate obstruction ranging from examples of petty greed to incidents of corruption and cover up.⁶¹ Well before Gorbachev became the General Secretary, he argued that profound transformations in the economy were absolutely vital for the future of the Soviet Union. In a meeting in December 1984 entitled, The All-Union Scientific and Practical Conference on the Improvement of Developed Socialism and the Party's Ideological Work, he stated:

The course aimed at intensification is dictated by objective conditions and by the entire course of the country's development. There is no alternative to it. Only an intensive economy developing on the basis of the latest scientific and technical achievements can serve as a dependable material base for improving the working people's well being, ensure the strengthening of the country's positions in the international arena and allow it to worthily enter the new millennium as a great and prospering power.⁶²

And in an address on French television in September 1985, Gorbachev stressed that "the amount of work to be done in industry alone in the forthcoming fifteen years is equal to that which we have done over the almost seven decades of Soviet power."⁶³ Gorbachev's call for greater productivity was due in part to his desire to improve the standard of living of Soviet citizens. He reiterated a longstanding Soviet argument--the path to greater civil and political rights was through the expansion of the Soviet economy. But

in his speech to the Twenty-Seventh Congress of the CPSU, Gorbachev did not argue that economic rights preclude political rights, rather he claimed:

Expanding public openness is a fundamental question for us. This is a political question. Without public openness, there is not and cannot be any democracy, political creativity by the masses or their participation in management.⁶⁴

This exemplified a shift in emphasis from the previous Soviet leaders who more frequently argued that the firm economic and social foundations of developed socialism would eventually enable a broader realization of political and civil rights for the Soviet population. For Gorbachev, the political and economic spheres are too interrelated to separate in this manner. He elaborated upon this further in October 1985 in a speech during the drafting of guidelines for the economic and social development of the Soviet Union to the year 2000. He stated:

I want to forcefully emphasize that without the all-out broadening and deepening of socialist democracy--i.e., without creating conditions for the daily, active and effective participation of all the working people and their collectives and organizations in resolving questions of state and public life--we will not be able to advance successfully....The development of genuine people's rule is acquiring even greater importance today. [This will be done by] expanding public openness, strengthening control from below and deepening democratic principles....⁶⁵

But Gorbachev continued:

We must instil the ideal of Marxism-Leninism in people, instil them by truthful words and actual

deeds, combining political education and ideological influence with the ever-expanding participation of the working people....⁶⁶

From the rationale used in these speeches, and many other commentaries, it is possible to draw two conclusions which may potentially influence the debate over human rights. First, effectiveness in the Soviet system will be accomplished within an ideological strait-jacket even if broader debate is permitted. Moreover, the party leadership will determine its proper parameters. Second, the ideological constraints imposed by Marxism-Leninism are even more necessary if the CPSU is to distance itself from the capitalist and social democratic political parties of Western Europe. The "new way of thinking" initiated by the Soviet leadership is not synonymous with Western democratic notions of political and economic liberties.

In order to assure the continuation of long-standing ideological rules, the new generation of Soviet leaders has accentuated the role of the CPSU. During the Twenty-Seventh Party Congress, Gorbachev discussed methods for enhancing social justice in the Soviet Union. While he did see room for reform in the CPSU, he defended its guiding role:

The Party is the leading force and chief guarantor of the development of socialist self-government. In performing its leadership role in society, the Party is itself the highest form of a self-governing sociopolitical organization. By developing inner-Party democracy and increasing the activeness of Communists working in all segments of

the political system, the CPSU gives the proper direction to the process of deepening the people's socialist self-government and expanding the participation of the masses and of every person in the country's affairs.⁶⁷

And he argued further that more effective self-government was being accomplished within the existing socio-political system with the ultimate objective of "enriching the content of democratic centralism and strengthening its socialist nature."⁶⁸ If Western observers are still unconvinced that glasnost does not provide unrestricted political freedom for citizens in their relationship to the state, Gorbachev offered still further evidence of constraints when he argued emphatically:

The entire arsenal of the Soviet person's social, political and personal rights and liberties should serve the tasks of the expansion and further development of socialist democracy. The Party and State regard the deepening of these rights and liberties and the strengthening of their guarantees as a primary duty. But the essence of socialism is such that citizens' rights do not exist and cannot exist without their duties, just as there are no duties without rights.⁶⁹

Gorbachev was referring to a wide range of duties included in the 1977 Constitution (which are discussed in Chapter Three and have not been altered). More recently, he outlined in the draft Party programme of October 1985 (and reiterated in the Twenty-seventh Party Congress in July 1986) that citizens are obligated to "struggle against manifestations of alien ideology and morality."⁷⁰ During the Nineteenth Party

Conference in July 1988, Gorbachev restated the important role of the individual in perestroika and the building of socialism.⁷¹ In fact, an extraordinarily important aspect of openness has been the continuing necessity of distinguishing the fundamentals of the Soviet system from those of Western democratic countries, lest Soviet citizens misinterpret glasnost as "westernization."

Writing as recently as 1987, Professor Spartak Beglov has argued that the fundamental social contradiction of the century is still between socialism and capitalism and that it is impossible to "stop the battle of ideas or the competition between the two ways of life."⁷² Officially sanctioned proclamations note that during the period of intensified socialist construction, the competition between capitalism and socialism is likely to increase, even though the world situation dictates that the two systems should cooperate when it is mutually beneficial. Gorbachev has forcefully argued:

Posing as champions of humanism and human rights, capitalist ideologists are trying to impose on the socialist world norms and standards of a way of life which is alien to us and to undermine the lofty humanistic ideals without which man's work and life itself would be meaningless. They would like to cultivate among us customs and tastes predominant in bourgeois society, 'to soften up' the people's minds, and make them susceptible to petty bourgeoisie ideas and petty, hollow temptations, to individualism, philistine fortune-hunting, ideological and cultural omnivorousness.⁷³

In this way, Gorbachev has called for political vigilance against such counter-ideological assaults while simultaneously campaigning for creativeness, experimentation and efficiency within the Soviet system. The Soviet leadership is certainly concerned about the potential appeal of Western democratic notions of openness to Soviet citizens and the ways that they may apply foreign ideological concepts to their own situations. A case in point has been the issue of "pluralism" in Soviet politics. Pravda contributor E. Kuzmin attempted to dispel any inclinations towards a multiparty system in the Soviet Union when he stated that "all appraisals of the political system of the society of real socialism from positions of the so-called 'pluralistic' concept...are scientifically and politically untenable."⁷⁴ Kuzmin argued that such a development would lead to destructive faultfinding and would represent a great leap backwards.

If glasnost' does not signal accommodation with capitalist ideology, then how do human rights specialists interpret this period of discussion in the Soviet Union? This question is ever more important since Gorbachev himself has claimed that Soviet foreign policy "is an organic and logical extension of our domestic policy."⁷⁵ Because the greatest emphasis here is on Soviet-American disagreements, it will be most useful to examine some selective official responses from representatives in the US Government.

One such reaction was provided by Richard Shifter, US Assistant Secretary for Human Rights and Humanitarian Affairs and former head of the US delegation to the Ottawa Human Rights Experts Meeting. In an address entitled, "The Promise and the Limits of Glasnost" to a group in Washington, DC in October 1987, Shifter set out his understanding of the changes in the Soviet Union. He expressed his support of more public criticism in the Soviet Union but concluded that:

it would be equally wrong to say that Soviet society under Gorbachev remains unchanged or, conversely, to suggest that "demokratizatsiya" under Gorbachev really means democratization, as we know it....Demokratizatsiya', as the term is used today, means allowing citizens some say in the government, but most assuredly not allowing them to influence the policies adopted by the top leadership of the party....My point is that the basic system of repression remains in place. The shackles have been loosened, in some respects substantially so. But they remain in place. They can be tightened again at the will of the Soviet leadership.⁷⁶

While he welcomed Gorbachev's efforts, Shifter did not agree with the editors of Time magazine who selected Gorbachev as their "Man of the Year for 1987" because, according to that publication, he was "a symbol of hope of a new kind of Soviet Union: more open, more concerned with the welfare of its citizens and less with the spread of its ideology and system abroad."⁷⁷ This latter assessment neglects the very essence of glasnost' which is to strengthen the economic and political power of the Soviet Union in preparation for

further competition with the alleged imperialistic policies of capitalist nations. Glasnost', despite its reformist slant, is intended to ultimately increase Soviet power, not to dilute it.

But what do the policies of the new general secretary signal for the Helsinki process specifically? Gorbachev has steadfastly defended the Helsinki process calling it "a life-giving source sustaining the trends toward mutual understanding and cooperation in Europe and beyond,"⁷⁸ "the most important political document of the post-war period,"⁷⁹ "a common asset of the peoples of Europe"⁸⁰ and one of the "constructive foundations in international life."⁸¹

Thus it is clear that Gorbachev intends to support the Helsinki follow-up meetings. His desire to maintain a consistent policy was exemplified in part by his decision in May 1986 to support the appointment of Yuri Dubinin, former chief Soviet delegate at the Madrid follow-up meeting and former Ambassador to the United Nations, to the position of Soviet Ambassador to the United States.⁸² With the additional return of former ambassadors Dobrynin (US) and Yakovlev (Canada) to Moscow, Gorbachev has experienced advisors to guide his internal and external policies on human rights.

Numerous more recent official Soviet statements have reiterated long-standing Soviet positions in the CSCE such as the priority of enhancing East-West economic, scientific and

technological ties to normalise the political climate in Europe (thus enhancing human rights).⁸³ During the opening session of the Vienna follow-up meeting, Soviet Foreign Minister Shevardnadze also argued against exclusive emphasis on Basket III, attempts to impose antithetical political ideals on participating nations, and contacts between people that do not serve humanism and peace and interference in the internal affairs of other nations.⁸⁴ Nevertheless, it is undeniable that Soviet representatives are currently more willing to discuss issues of human rights than in the recent past.

For example, when Gorbachev was interviewed on French television in September 1985, he was asked why he had not initiated substantial change in Soviet policies on human rights since they were so damaging to the reputation of the Soviet Union abroad. His answer was direct, but uncharacteristically responsive. He replied:

I could put it as follows: let us in the Soviet Union manage our affairs ourselves and you in France manage yours [Indeed, this has been the most common Soviet response]. But I will nevertheless answer your question. The issue of human rights is no problem to us, and we are ready to debate it anywhere, in any audience, and with any representatives [emphasis added]. We have plenty to say on this issue which is now being played up artificially by Western propaganda and exploited to poison relations between nations and states.⁸⁵

Indeed, Soviet representatives have, since 1985, been more willing to debate and to boast about their track-record in

human rights, but this does not mean that they have adopted Western perspectives. Western observers must, for the sake of accuracy, acknowledge a number of interesting developments. The US State Department, one of the most adamant critics of the Soviet record in adhering to the Final Act, actually has had praise for "some specific improvements in the U.S.S.R. in the field of human rights and human contacts."⁸⁶ In particular, the report applauded the expansion of permissible topics discussed in the domestic Soviet press and broader freedoms for intellectuals. It positively appraised decisions by the Supreme Soviet in February 1987 to release and pardon a number of prisoners convicted under "political" articles and some minor improvements for religious activists.⁸⁷ These "improvements" did not, however, prevent an overall negative assessment by the representatives of the US State Department. They concluded that "Soviet conduct continued to fall short of the standards of the Helsinki Final Act and the Madrid Concluding document."⁸⁸ The US Commission on Security and Cooperation in Europe has also accentuated Soviet non-compliance with the Final Act and international standards of human rights.

But the single Soviet action that generated the most optimism in the West was the release from exile of Andrei Sakharov in December 1986. After numerous public denunciations of the Soviet invasion of Afghanistan, Sakharov and his

wife Elena Bonner were arrested in May 1984 and sent to live in the city of Gorky without being sentenced or put on trial. According to the predictable rationale applied by the Soviet leadership, Gorky effectively isolated Sakharov from contacts with the Western media, or even with other Soviet citizens. Nevertheless, on 17 December 1986, Gorbachev telephoned Sakharov to inform him that he was released from exile and could return to Moscow.⁸⁹ A formal announcement was made on 19 December by Deputy Foreign Minister Vladimir Petrovsky (clearly for a foreign audience) and the news was broadcast that evening on the Soviet television program, Vremia (targeted for domestic consumption).⁹⁰ Since Sakharov had been the preeminent dissident in the Soviet Union since at least 1968, there was much conjecture that his release signalled a major change in official Soviet policy on dissidence.⁹¹ And Sakharov was in poor health such that Gorbachev's action was humanitarian in at least a limited sense. But did this decision on the part of the Soviet leadership signal a new definition of dissidence in the Soviet Union which one could equate with Gorbachev's strong proclamations about openness? While this conclusion was tantalizing to some Western analysts, it was unwarranted given the numerous political advantages in ending Sakharov's exile. The ultimate decision was based more on a strict cost-benefit assessment for domestic and foreign policy than

on a predetermined decision to make a truly unprecedented change in the content of debate and the process of decision-making in the Soviet Union. There are a number of reasons, which have been largely overlooked by journalists and specialists alike, why the political benefits of releasing Sakharov outweighed the costs and why Sakharov's "freedom" did not threaten the CPSU's control of ideology.

First of all, Sakharov's relationship with the Soviet authorities was very much influenced by the deteriorating health of his wife Elena Bonner. By October 1985, Bonner was in desperate need of medical attention for ailing heart and eye problems (thrombophlebitis) that could be treated only in the West. Sakharov took the dramatic step (although not unprecedented for him) of writing to the Soviet Academy of Sciences with a statement of resignation unless Bonner received permission to travel to the US on medical grounds, with a corresponding guarantee that she be permitted to return to the USSR.⁹² Bonner received a visa in October 1985, just before the Reagan-Gorbachev summit, most likely because this action portrayed the Soviet leaders as humanitarian. It also prevented Sakharov from resigning from the Soviet Academy of Sciences which otherwise might have incited scientists in Western Europe and the United States to advocate limits on scientific and technological exchange potentially damaging to Gorbachev's efforts at perestroika.

And the "concession" established a precedent of voluntarily curtailed freedom because Bonner agreed that she would not talk to Western journalists during her travel.⁹³ The potential problems that Bonner could have caused for Gorbachev, especially with such adamant support from Sakharov, were diffused in the most efficient way possible.

A second reason for releasing Sakharov may have been due to the successful precedent established in Bonner's case by the Soviet authorities. It was widely rumoured in Moscow that Sakharov had written a letter to Gorbachev in July 1985 in which he pledged to discontinue all public activities in return for permission to return to his scientific work.⁹⁴ Given Sakharov's prolonged and resolute stand against such a compromise, it seems implausible that he would initiate a dramatic change in principle, but this would not have prevented the Soviet secret police and the upper echelons of the CPSU from fuelling rumours to undercut Sakharov's following both within and outside of the Soviet Union. In fact, upon his release, Sakharov did have to answer suspicions that he had arranged a compromise with Gorbachev. Reached by telephone on 20 December 1985, Sakharov stated that, "I am going to live as I lived before my exile, and resume all of my activities."⁹⁵ When asked about the telephone call from Gorbachev, Sakharov claimed, "He told me to work for the public good--that is the formula he used."⁹⁶

Even though Sakharov denied that he pledged to refrain from political criticism, and he did reaffirm his dissent on such issues as the Soviet occupation of Afghanistan and the incarceration of political prisoners, Sakharov's public support for Gorbachev soon fed speculation that the two men did come to a compromise. In any case, in one of the most unpredictable political developments, Sakharov has been put somewhat on the defensive by the Western media. It can be expected that in a relatively short period of time, Sakharov's case will become a less newsworthy item and that his role as a leader against human rights abuse in the Soviet Union will gradually diminish.

A third rationale used by the Soviet leaders for releasing Sakharov may very well have had to do with political timing. December 1986 was a particularly opportune time to make the announcement. The first stage of the Vienna follow-up meeting was underway and the objective of the new policy toward Sakharov may have been to soften verbal assaults on the Soviet delegation there (in actuality, it did not lessen criticism of Soviet conduct). Soviet anxiety may have been particularly high after former Moscow Helsinki Monitor, Anatoly Marchenko, died in prison during a hunger strike on 8 December.⁹⁷ Marchenko had been successful in smuggling a letter out of the Soviet Union to Vienna where it became a source of great tension between the Soviet delega-

tion and those from Western Europe.⁹⁸ In fact, it is not outside the realm of possibility that Marchenko died from beatings received by his jailers after the letter was produced in Vienna. The Soviet leaders must have recognized that a letter from Sakharov could have reached Vienna just as easily. After all, Sakharov had been able to send a letter to representatives attending the Stockholm Conference on Confidence and Security-Building Measures in January 1984.⁹⁹ Even worse, the forced exile and isolation was hard on Sakharov physically (he apparently suffered a stroke during a hunger strike in May 1985). The death of Sakharov, in addition to Marchenko, would have been devastating to the international image of the Soviet Union. The death of Bonner would have been equally damaging. That image, especially in the category of human rights, was being improved not only by Gorbachev's public relations, but also due to the much publicized decisions of fifty Soviet emigres to return to the Soviet Union from the United States because of various complaints about American lifestyles.¹⁰⁰ This mass emigration from the United States seemed to confirm Soviet arguments about the superior humanitarian "way of life" guaranteed by socialist democracy. Perhaps it was hoped that Sakharov's complaints would appear hollow to many Soviet citizens and, in any case, the recollections of repatriated

Soviet citizens would overshadow most anything that Sakharov wished to say in Moscow.

A fourth factor relevant to Sakharov's release, was that Sakharov could not be silenced altogether. He was repetitively successful in exporting his comments to other nations for publication and then potentially for underground recirculation in the Soviet Union. For instance, even during his exile and strict confinement in Gorky, he was able to smuggle out an advance copy of his autobiography and also letters detailing his ordeal with the KGB during his exile.¹⁰¹ In other words, Sakharov was not silenced in Gorky and, when he was able to communicate to a Western audience, it was a major media event and a serious embarrassment for Soviet authorities whose fabrications about Sakharov and the mistreatment of political prisoners were exposed. Thus, Sakharov's continued confinement in Gorky only heightened awareness of political dissent in the Soviet Union and it did not enhance the image of Gorbachev inside or outside of the Soviet Union.

Thus, a final advantage gained by the return of Sakharov to public life was the positive international reaction toward Gorbachev who has striven to present himself as a true humanitarian reformer as opposed to the alleged hypocritical capitalist human rights activists in the West. As represented in the Soviet press, a "humanitarian decision was

taken with respect to Academician Sakharov."¹⁰² But it was also implied, in both the official press and in Sakharov's statements, that on his return to a research institute he could potentially assist the new generation of Soviet leaders in their technological restructuring of the Soviet Union. For the domestic audience, Gorbachev may have been seen as both generous and practical. An even more interesting possibility is that Gorbachev wanted to send an unprecedented and emphatic signal to individuals in the CPSU and bureaucracy on the seriousness of his reforms. While the release of Sakharov did not threaten the ideological foundations of the Soviet system, it had the potential to intimidate those persons who most resisted glasnost and perestroika. What was presented as a humanitarian gesture may have been equally important as a demonstration of political authority as well.

In conclusion, the decision to end Sakharov's exile should not be viewed as a concession under pressure from foreign governments or citizens about human rights. Rather, partial reconciliation with Sakharov, the most respected dissident in the Soviet Union, has effectively undercut the unofficial reform "movement," while it has accentuated the guiding role of Gorbachev and the CPSU in improving the efficiency of the Soviet system. The Sakharov case illustrates that the Soviet leaders have developed much more complex and reasoned policies to contend with dissidence.

The following section gives further examples of this relatively new sophistication and of the errors recently made by the Reagan administration and American human rights specialists in interpreting Soviet human rights policies in procedural change.

EMIGRATION FROM THE SOVIET UNION RECONSIDERED

Of all the issues which generate controversy in the humanitarian sphere of Soviet-American relations, none is more regularly topical than emigration from the Soviet Union. The right to leave the Soviet Union, temporarily or permanently, has become the most important subject in bilateral relations to many American citizens (after arms control), who also see it as the most significant aspect of the "Helsinki process." But the Final Act does not even mention emigration per se. Rather, in the subsection entitled, "Human Contacts" in Basket III, the signatories pledged to create better conditions for members of divided families either to visit one another or to reunify their families (including persons recently married or planning to marry). They also agreed to facilitate travel for a host of personal or professional reasons. This is the rather narrow context in which emigration is mentioned in the Final Act. Perhaps the

greatest cause of the growing misconception that the Final Act is a guarantor of unlimited emigration was the meeting of experts on human contacts in Bern where the issue was thrust to the forefront in the discussions. The crux of US Ambassador Novak's complaints in Bern was that the Soviet leaders had failed miserably to follow through on previous pledges to increase emigration. As stated above, the US was criticized by many delegates for being the only nation to veto the concluding document in Bern, but in the long-term the controversy created greater awareness about the section on human contacts. Unwittingly, US officials contributed to the perception that the most important provisions of the Final Act, if not the only ones that are concerned with human rights, fall into the category of human contacts, and emigration specifically.

Since the early 1970's, the degree of emigration has, at least to many American citizens, served as a barometer of the state of Soviet-American relations. Overwhelmingly, the most attention has been on Jewish emigration with other religious and national groups receiving only a fraction of the attention.¹⁰³ In the 1980's, these trends have continued through ongoing attempts to link emigration (and other issues of human rights) to a variety of other important topics negotiated by representatives of the two governments. For example, in June 1985, US State Department spokesperson,

Bernard Kalb argued that official Soviet policy toward Jews was "tragic and needless" and would prevent an improvement in the relationship between the two countries.¹⁰⁴ Richard Shifter, head of the US delegation to the human rights conference in Ottawa, warned his Soviet counterparts that arms control and human rights were linked and he submitted a list of names of individuals who wanted, for various reasons, to leave the Soviet Union.¹⁰⁵ Two months before the superpower summit in Geneva (19-20 November 1985), all 100 members of the US Senate signed a letter addressed to President Reagan which urged him to make human rights an issue in the upcoming meeting and their greatest concern was Jewish emigration.¹⁰⁶ Senator Robert Dole specifically linked trade relations to Jewish emigration when he asked his colleagues to reconsider ways to use Most-Favored-Nation trade privileges to modify official Soviet treatment of those who had applied to leave the Soviet Union.¹⁰⁷ Even US Secretary of State, George Shultz, who has usually rejected the notion of "linkage," stated soon after the summit in Reykjavik (where Jewish emigration was a major topic) that arms control would not be possible without "substantial Soviet progress" in the area of human rights, especially since the US Senate would not ratify an arms treaty without evidence of "improvement."¹⁰⁸ And representatives from non-governmental organizations, such as the National Conference

on Soviet Jewry, have pressed for linkage between Jewish emigration and other issues (especially arms control and trade).¹⁰⁹

Efforts to create interconnections have been vigorous despite responses from Gorbachev that "Attempts to use trade as a tool for interfering in our domestic affairs are futile. We do not need such trade. We can do without it."¹¹⁰ Such statements are common and reflect Soviet determination to reassert their national sovereignty and to resolve any controversial cases through whatever methods are available through internal institutional guidelines.¹¹¹ But this does not mean that the Soviet leaders have not learned from past experience when contending with demands for increases in emigration. In fact, while outwardly maintaining their principled position on emigration, they have apparently realized that of all the contentious humanitarian issues in East-West relations, emigration is the one which carries few implications for ideology. When Soviet citizens have relatives in the West, their motivation for reunification is far less for political than family reasons. The Soviet leaders can therefore make concessions without threatening democratic centralism, socialist democracy or the guiding role of the CPSU.

The only potential drawback, and one that must cause some concern, is that many emigres in the West join organiza-

tions or begin activities that could be perceived as "anti-Soviet" from the Soviet perspective. An increase in the number of emigres in the West who present a negative characterization of the Soviet Union would not be a positive development for propagandists in Moscow. When Anatoly Shcharansky arrived in Israel, he stated to numerous representatives from Western news agencies that thirteen million people were suffering from inappropriate institutional confinement in the Soviet Union and between ten and twenty thousand of those individuals were political prisoners.¹¹² Statements such as Shcharansky's, even if true, could lead the Soviet authorities to decrease emigration. Should Western leaders desire to relieve Soviet anxieties, they could present those like Shcharansky as "cultural figures" while discouraging them from making blatant political accusations against the Soviet Union. This could very likely shift the focus on emigration to the category of cultural exchange, which is not so ideologically threatening to the Soviet leaders. When Shcharansky's case was discussed during the cultural forum in Budapest, this new approach of placing human rights in the context of culture, was in fact unintentionally attempted.¹¹³

For representatives of Western governments, the resolution of individual cases of would-be emigration are often a cause for celebration and, as the numbers of persons

coming to the West increases, the image of the Soviet Union often improves in the West. In one recent case, even the ultra-conservative National Conference for Soviet Jewry claimed that the Soviet leaders should be "rewarded" for increasing emigration in 1986 by a reduction in trade sanctions formerly imposed by US authorities.¹¹⁴ But there are many other possible objectives underlying Soviet policies on emigration and since this has become the predominant issue of human rights in the United States, it will be useful here to ask why the Soviet leadership, under the guidance of Gorbachev, has been so willing to increase the flow of emigrants. There are a number of factors which have been neglected by Western protagonists which shed new light on the multi-dimensional nature of this issue.

First of all, assessing Soviet compliance with the Final Act by monitoring the number of Soviet emigrants not only places undue emphasis on one sub-section of the Final Act, but it also tempts the Soviet authorities to adjust the figures to suit their own purposes. One method they have used is to time announcements of large spurts of emigration (especially when highly publicized cases can be resolved) just before superpower summits or other international gatherings.¹¹⁵ Since US representatives often tie improvements in emigration to greater cooperation in other areas, they are often put in the position of "balancing the ledger"

on other issues of more specific concern to the Soviet Union. Soviet leaders appear to have developed a much better sense of timing in this regard. Similarly, many announcements are made regarding emigration, such as the Soviet pledge at the meeting of specialists on human contacts in Bern to resolve cases of divided families involving 240 persons. However, after summits or conferences, the majority of cases is not in fact resolved. There is no longer any pressure to process the applications since the Soviet authorities have already derived the desired political benefits from the original announcement made before or during the conference.

Another reason why the issue of emigration is so multifaceted is because of the difficulty in determining just how many citizens actually wish to emigrate from the Soviet Union. Indisputable figures are not available in the West. While Soviet leaders have not permitted large increases in emigration desired by Western leaders, it should be recognized that the enthusiastic efforts of glasnost' and perestroika could very well reduce the number of those wishing to emigrate. Many would-be emigrants are intellectuals who are frustrated with the lack of political or economic advancement in the Soviet Union. Gorbachev has claimed that those individuals will now have the opportunity to play greater participatory roles in precisely those areas.¹¹⁶ Perhaps the release from exile of Andrei Sakharov

accentuated these new possibilities. Consequently, the number applying to emigrate could be reduced giving the false impression that an official crackdown on emigration was underway. Soviet spokespersons have contended that the number of applicants has decreased (a claim that cannot be dismissed outright) although Gorbachev's assertion that, "We have now let everyone wishing to emigrate to do so," appears incredulous.¹¹⁷ Certainly, at some point the number of applicants will decline, but it will be very difficult for Western analysts to recognize if this development is due to positive changes in Soviet society or to restrictions and intimidation from the Soviet authorities.

With Western concern for Jewish emigration at such a continually high pitch, a new law on emigration was proclaimed in the Soviet Union.¹¹⁸ The new guidelines were issued in November 1986 during the first round of negotiations in the Vienna follow-up conference and were to take effect on 1 January 1987. Allegedly, the rewritten standards made emigration easier for Soviet citizens because most applications would be processed within one month if they involved the reunification of families, meetings with close relatives, visits with seriously ill relatives, marriage or other valid reasons. But there were many causes for the denial of an exit visa which generated a very negative impression among Western observers who believed that,

ultimately, the law made emigration more difficult.¹¹⁹ Nevertheless, the new law allowed the Soviet authorities to announce a "restructuring" of the policy on emigration which allegedly reflected heightened concern for this dimension of human rights. In reality, it is too early to gauge with accuracy the impact of the new provisions.

Should there be a substantial increase in emigration, it is entirely possible that Western societies will not be able to absorb the larger number of immigrants. In February 1987, many organizations that resettle new American citizens issued a warning that if the number of immigrants topped a predicted figure of 7,000, they would not have the resources to help them.¹²⁰ Such services are already inadequate for assisting immigrants in the difficult, sometimes traumatic experiences that they encounter in their new environment. The fact that fifty Soviet emigres returned to their homeland in December 1986 should serve as a warning of the consequences of inadequate planning or resources in this area. And if more individuals return to the Soviet Union, the complaints about unnecessary restrictions on Soviet citizens issued by Western governmental and nongovernmental spokespersons could begin to sound very hollow.

Finally, there is an especially dark side to the issue of emigration. When the number of citizens leaving the Soviet Union increases, there is a danger that more espionage

agents will enter Western societies. The most recent instance of mixing East European agents within groups of emigrants occurred in the Federal Republic of Germany where officials arrested a number of operatives from the German Democratic Republic who were posing as political refugees.¹²¹ West European governments may not have the resources to monitor and prevent these occurrences which are a negative and frequently overlooked aspect of emigration from Eastern Europe. This is not to say that all political officials in the governments of Eastern Europe condone these tactics. Indeed, they may be practised entirely by the relevant "security agencies," but this does not lessen the ongoing threat or the assault on the sovereignty of the nations that are targeted. The following section continues the discussion of this particular problem because, once their espionage agents have been exposed, the Soviet and East European authorities do attempt to retrieve their agents and they have devised a method which preys upon the Western preoccupation with human rights.

SPY-DISSIDENT EXCHANGES--A DANGEROUS TREND

As outlined in the previous section, the extraordinary emphasis which some individuals in the West place on

emigration from the Soviet Union does not necessarily help a great number of would-be emigres, nor circumvent the Soviet definition of human rights. Indeed, one of the potential by-products of an increase in emigration is an attendant larger influx of East European spies into the societies of the West. When the number of emigres does not continually rise, Western political leaders have felt pressured to resolve humanitarian cases in other ways, especially if the individuals in question have become popular in the Western media, which almost guarantees that they will become pariahs in their own societies. When the individual attains international prominence, there is often even greater pressure to negotiate for their release.

Under these conditions, Western leaders have searched for alternatives to confronting the Soviet authorities with Western democratic notions of virtually unrestricted freedom of movement of citizens. The most dangerous of these possibilities is the practice of exchanging captured Soviet and East European spies for dissidents. At first glance, this option may appear beneficial to both sides. The Western negotiators would attain a victory on humanitarian grounds, while freeing a prominent dissident who could increase awareness in his or her new country on the conditions of others in their former society. Of course, representatives of the Soviet government would retrieve exposed intelligence

agents. Trading spies for dissidents appears to avoid the ideological differences which impinge upon efforts to resolve contentious human rights cases in such fora as the "Helsinki process." In reality, however, use of this option reflects misunderstanding over the Soviet view of dissent and can only have short-term success for it actually justifies the controversial definitions of human rights by the Soviet authorities.

The first major spy-dissident exchange took place during the Carter administration. On 28 April 1979, President Carter completed a prisoner exchange which sent Aleksander Ginzburg, Georgii Vins (and his wife and five children), Valentin Moroz, Eduard Kuznetsov and Mark Dymshits to the United States. Additionally, the Soviet Union agreed not to execute a captured American spy in return for an American promise to commute the sentences of two Soviet spies from its mission at the United Nations.¹²²

A second public exchange occurred during the Reagan Administration. In this case, five Soviet and East European spies were traded for three accused NATO spies. This aspect of the exchange was relatively uncontroversial, but when Soviet dissident Anatoly Shchanransky was included, the dominant feature of the event was that a prominent dissident, accused of delivering military secrets to the West, was traded for convicted espionage agents.¹²³ The Soviet

intention was probably to reaffirm their claim that dissidence is by definition anti-Soviet and treachery.

Through the completion of the Shcharansky exchange, the precedent for equating espionage with dissidence was solidified. This was even more apparent in September 1986 when, as part of the settlement returning American journalist Nicholas Daniloff to the United States and Soviet diplomat Gennadii Zakharov to the Soviet Union, Soviet dissident and founder of the Moscow Helsinki Monitoring Group, Yuri Orlov was permitted to emigrate from the Soviet Union. Both Daniloff and Zakharov were accused of spying while Orlov was convicted for "anti-Soviet agitation and propaganda." The exchange went yet another step toward equating dissidence with treachery and has left Soviet dissidents open to future manipulation of this kind.¹²⁴

The practice of trading spies for dissidents better serves Soviet objectives. Since dissidents in the Soviet Union are labelled by the Soviet leaders as "traitors," these exchanges go a long way in legitimizing their claim.¹²⁵ While some Western analysts assert that this is irrelevant as long as the dissidents are allowed to leave, the more significant issue of what longer term effects this will have on the majority of dissidents still in the Soviet Union is entirely overlooked. Not only are the remaining dissidents endangered, but also the Soviet leadership may very well

intend to deport gradually the most prominent dissidents in this fashion so that the lesser known dissidents in the Soviet Union no longer have an internationally recognized spokesperson. Also, if Gorbachev intends truly to broaden the public discussion of political and economic matters in the Soviet Union, it may be better to have well-known dissidents in the West than at home where they may have the opportunity to influence more persons into their ideas which Party ideologues or government officials do not acknowledge as legitimate for debate, however broadly it is expanded. Whatever the purpose, it is entirely inappropriate to refer to Shcharansky as "the man who beat the KGB."¹²⁶

Another potential problem with the exchanges is that they may encourage Soviet officials to include even more spies with the groups of emigrants that are permitted to travel to Western Europe or Israel. Those spies who were captured could become trade items for dissidents anyway. This would be an unfortunate cyclical scenario which Western leaders would be partially responsible for generating. And, in any case, the exchanges violate the spirit of the Helsinki process for the rights of dissidents are not as important as their value as bargaining chips.

Efforts to trade spies for dissidents do not circumvent the differences in the area of human rights between the Soviet Union and the United States. Since the latest

exchange took place under the guidance of General Secretary Gorbachev, one can conclude that he favours treating major Soviet dissidents in this manner.

CONCLUSION

The "Helsinki process" has entered its second decade at the same time that much optimism has been generated over the new Soviet leadership's policies on human rights. In reality, Gorbachev's willingness to adopt "Western" perceptions of human rights is overestimated by political observers in the West. This chapter has examined three central questions which illustrate that differences over human rights are still impediments to US-Soviet co-operation through the Final Act. In the first instance, the Soviet leaders have not shifted their emphasis in the Final Act from the provisions solidifying the territorial and ideological status quo. While the follow-up conferences and meetings of specialists have resulted in some "compromises," these have been in areas that are the least "ideological" such as cultural exchanges and reunification of families. In Ottawa, where human contacts and human rights were discussed at the greatest length, no major breakthroughs occurred.

Secondly, Gorbachev's policies up to late 1988 have been consistent with Soviet statements of the past. Specific efforts to broaden socialist democracy are still within the ideological framework established by the Party. Gorbachev is more concerned with open discussion to improve Soviet economic performance than he is with theoretical debate on the origins of human rights. Gorbachev has re-emphasized the interrelationship between rights and duties in the Soviet system. In his handling of Andrei Sakharov, Gorbachev has tried to deflect international criticism about human rights and to minimize the popularity of major dissidents in the Soviet Union.

The final issue considered here regards the mistakes made by official representatives of the US as they have attempted to circumvent ideological differences over human rights between the superpowers. Emigration, especially Jewish emigration, is an inaccurate barometer of US-Soviet relations and it is an inappropriate issue to place in the forefront of the Helsinki process. If American representatives continue to press for increases in emigration from the Soviet Union, they must become more sensitive to the problem of relocating immigrants in the United States and to the possibility of Soviet emigres returning to the Soviet Union with negative impressions of American life. There is also the danger that some emigres may be in the clandestine

employment of the Soviet government to gather information for military purposes. This latter hazard will be increased if it becomes common practice to trade captured spies for dissidents.

ENDNOTES

1. Concluding Document of the Madrid Meeting, 1980 (6 September 1983 in Mastny, Vojtech, Helsinki, Human Rights and European Security (Durham: Duke University Press, 1986), pp. 352-70.

2. Ibid, p. 243.

3. Ibid, p. 244. Here it should be noted that the Polish and Soviet representatives to the Madrid meeting were criticized severely for the declaration of martial law in Poland (December 1981) to crush the Solidarity movement and for the ongoing Soviet occupation of Afghanistan from December 1979, respectively. See, Madrid CSCE Negotiations, 1980-81, Selected Documents No. 20, Bureau of Public Affairs, US Department of State, Washington, DC.

4. Pravda, 8 September 1983, pp. 1-2 in Current Digest of the Soviet Press, Vol. 35, no. 36 (5 October 1983), pp. 10-11.

5. Pravda Ukrainy, 10 June 1983, p. 3 in Ibid, p. 21. Two other Soviet authors wrote that, "the 'crusade' against communism declared by President Reagan also serves the purpose of fighting real socialism. During the 'crusade,' aggressive imperialist circles reckon to weaken the position of the socialist countries and, if possible, to undermine socialism and a social system." Petrenko, F. and Popov, V., Soviet Foreign Policy: Objectives and Principles (Moscow: Progress Publishers, 1985), p. 297. Also see Chernenko's comments as represented in The New York Times, 15 June 1983, p. 3.

6. This statement was made by George F. Kennan, former US Ambassador to the Soviet Union. An experienced, but unnamed advisor to the President stated, "I don't know of a time when our relations have been worse at an official level. The mutual suspicions are very high." Marshall Shulman, then director of the Russian Research Center at Columbia University and a former advisor on Soviet affairs for President Carter claimed that, "Relations are on a low plateau--poor communications, tension, dismantling of cooperative activities, sharp rhetoric. There aren't any signs for improvement in the near future." The New York Times, 24 May 1983, pp. 1, 8. Mutual suspicions and recriminations increased even further after Soviet air

defense planes shot down and Korean Airlines Boeing 747 that entered Soviet airspace in September 1983. Everyone on board the airliner was killed.

7. Concluding Document of the Madrid Meeting in Mastny, pp. 356, 367-8, 370.

8. Pravda, 24 January 1984, p. 4 in Current Digest of the Soviet Press, Vol. 36, no. 4 (22 February 1984), p. 6.

9. During Shevardnadze's speech in Helsinki commemorating the tenth anniversary of the Final Act, he made only a passing reference to human rights and did not mention the recently completed meeting in Ottawa. Pravda, 31 July 1985, pp. 4-5 in Current Digest of the Soviet Press Vol. 37, no. 31 (28 August 1985), pp. 1-5.

10. Eickhoff, Ekkehard (Carol Herrmann, trans.), "Das KSZE-Expertentreffen über Menschenrechte in Ottawa--eine Bewertung," Europa-Archiv, Vol. 19 (1985), pp. 573-80 in Mastny, p. 304. Virtually all of the sources for the Ottawa meeting are Western due to the sparse coverage of the meeting in the Soviet press.

11. Ibid, p. 306.

12. Shifter, Richard, "The Key Words of This Call for Our Meeting," Introductory statement by the head of U.S. Delegation, Ottawa, 10 May 1985 in Mastny, p. 285.

13. Ibid, pp. 285-7.

14. The New York Times, 11 October 1986, p. 6.

15. Eggleston, Roland (Reported by Radio Free Europe Correspondent), "Clash at Ottawa," Ottawa, 15 May 1985 in Mastny, p. 280.

16. Ibid.

17. Ibid, pp. 280-1.

18. Ibid, p. 281.

19. Eggleston, Roland (Report by Radio Free Europe Correspondent), "KGB General on Human Rights," Ottawa, 17 May 1985 in Mastny, p. 282-3.

20. Shifter, Richard, "U.S. and Soviet Quality of Life Compared," Address by head of the U.S. delegation, Ottawa, 22 May 1985 in Mastny, pp. 289-303. The specific problems that Shifter cited included "the incarceration of persons guilty only of giving expression to their thoughts, the persecution of religious believers, the commitment of sane persons to institutions for the mentally ill, cultural repression, and discrimination against a certain people on the grounds of ancestry." Ibid, p. 291.

21. Ibid, pp. 291-5.

22. Shifter, Richard, "The U.S. and International Covenants," Statement by head of U.S. delegation, Ottawa, 4 June 1985 in Mastny, pp. 287-9. An equally inadequate argument was articulated by Elliot Abrams, former Assistant Secretary of State for Humanitarian Affairs. He claimed that the US could not ratify the covenants because they would set unrealistic goals for poor nations. He discounted the fact that many developing nations have already signed the covenants and he also neglected the rights of sovereign nations to determine their own foreign and domestic policies. The New York Times, 10 February 1982, p. 3.

23. Shifter, "U.S. and Soviet Quality of Life Compared" in Mastny pp. 295-303.

24. Western Draft Summary of the Results of the Ottawa Meeting, 1985 (15 June 1985) in Ibid, pp. 371-4.

25. Eickhoff in Ibid, p. 309.

26. Western Draft Summary of the Results of the Ottawa Meeting in Ibid, p. 371.

27. Eickhoff in Ibid, p. 310.

28. Implementation of Helsinki Final Act, Special Report No. 134, Nineteenth Semiannual Report, April 1, 1985 October 1, 1985, Bureau of Public Affairs, US Department of State, Washington, DC, p. 5.

29. Ibid. The Ottawa meeting was especially valuable in keeping issues of human rights in the forefront of Soviet-American relations. For example, during the meeting, Aleksei Semyonov (Elena Bonner's son) and Tatiana Yankelevich (Elena Bonner's daughter) expressed to the delegates their concern about the whereabouts of Sakharov and Bonner who could not be contacted in their apartment in Gorky for over two months.

After Yankelevich had also learned that Sakharov had been on a hunger strike, he confronted the chief Soviet delegate, Vsevolod Sofinsky who responded that Sakharov was in good health. The New York Times, 15 June 1985, p. 3. Other individual expressions of concern before the meeting in Ottawa must have contributed to the momentum of unified concern at the conference. For French President Francois Mitterand's inquiries, on behalf of the EEC, see, Ibid, 18 May 1984, p. 3. Georges Marchais claimed that the French Communist Party should have broken communications with the CPSU over the persecution of Sakharov. See, Ibid, 4 June 1984, p. 7.

30. Izvestiia, 12 July 1985, p. 5 in Current Digest of the Soviet Press, Vol. 37, no. 28 (7 August 1985), p. 17.

31. Ibid, pp. 17-18.

32. Ibid.

33. Ibid.

34. Ibid.

35. U.S. Congress, Commission on Security and Cooperation in Europe, Annual Report of the Commission on Security and Cooperation in Europe for the Period Covering January 1 through December 31, 1986, 99th Congress, 2nd session, (Washington: U.S. Government Printing Office, 1987) p. 5.

36. Ibid, p. 6. U.S. Congress, House, Commission of Security and Cooperation in Europe, Implementation of the Helsinki Accords, Hearing Before the Commission of Security and Cooperation in Europe, the Bern Human Contacts Meeting, March 18 and June 18, 1986, (Washington: U.S. Government Printing Office, 1986).

37. Annual Report of the Commission of Security and Cooperation in Europe for the Period Covering January 1 through December 31, 1986, p. 5.

38. U.S. Department of State, Implementation of Helsinki Final Act, Special Report No. , Twenty-first Semiannual Report, April 1, 1986 - October 1, 1986, (Washington: Bureau of Public Affairs, 1986), p. 5.

39. The New York Times, 20 January 1986, p. 2, 21 January 1986, p. 21, 25 January 1986, p. 5, 31 January 1986,

p. 10, 9 February 1986, p. 2, 18 February 1986, p. 1, 28 March 1986, p. 12, 28 May 1986, p. 1.

40. Pravda, 25 April 1986, p. 5 in Current Digest of the Soviet Press, Vol. 38, no. 17 (28 May 1986), p. 14.

41. Implementation of the Helsinki Accords, The Bern Human Contacts Meeting, p. 263.

42. Pravda, 28 May 1986, p. 5 in Current Digest of the Soviet Press, Vol. 38, no. 21 (25 June 1986), p. 17.

43. Report of the Meeting of Experts on Human Contacts Representing the Participating States of the Conference on Security and Cooperation in Europe, Foreseen by the concluding Document of the Madrid Meeting, International Affairs (Moscow), Vol. 10 (October 1986), pp. 156-60.

44. One of the more negative commentators, Don Cook of the Los Angeles Times, wrote an article (27 May 1986) in which he quoted one frustrated Western diplomat who stated, "We in Europe have far many more close problems of human contacts than the United States on the other side of the Atlantic, and there were a number of points in the compromise document which we felt would offer real benefits in improving the Helsinki process." Ibid, note 40, p. 258. A month later, Cook wrote in the Montgomery Advertiser (1 June 1986) that, "If an aim of Soviet diplomacy is to separate America from Europe, then the Reagan administration's recent performance at the conference on human contacts must look, to the Kremlin, like the beginning of a dream come true." Ibid, p. 263. Conversely, Norman Podhoretz, editor of Commentary magazine, wrote in the New York Post (3 June 1986) that Reagan's decision was courageous with the explanation that, "The vain thing the people imagine today is that their leaders can defy the laws of political reality. Specifically, they imagine that the world can be made safer through paper arrangements with a totalitarian regime." Ibid, p. 261. Finally, an unnamed author in an editorial in The Wall Street Journal (4 June 1986), asserted that "Mr. Novak's refusal to sign amid mounting pressure was a courageous decision made in the best interests of the people for whom the conference was called." Ibid, p. 255.

45. Mihajlov, Mihajlo (Radio Free Europe Research, RAD Background Report/117), "The Budapest Cultural Forum: Heritage, Diversity Freedom," 11 October 1985, pp. 2-3 in Mastny, p. 312.

46. Ibid.

47. Ibid.

48. Ibid.

49. Fleischman, Janet, "The Independent Cultural Symposium," testimony by Assistant to the Executive Director of the U.S. Helsinki Watch Committee before the Commission on Security and Cooperation in Europe, 11 December 1985 in Mastny, pp. 315-17.

50. In his speech during the opening session of the Vienna follow-up meeting, Soviet Minister of Foreign Affairs, Eduard A. Shevardnadze issued the following invitation: "Since a good many problems of humanitarian cooperation have accumulated and they all require close attention and a sweeping approach, using new historical yardsticks, the Soviet Union submits a proposal for convening a representative conference of member-states of the all-European conference to deal with this entire complex, including people-to-people contacts and questions of information, culture and education. We invite this forum to meet in our country, in Moscow." Pravda, 6 November 1986, p. 5 in Current Digest of the Soviet Press, Vol. 38, no. 45 (10 December 1986), p. 10. As for the lukewarm response from other participants in Vienna, one Soviet commentator wrote, "Many have taken a realistic and understanding view of this proposal. Others, including certain very well-known Western leaders and activists in various human-rights campaigns aimed against the socialist countries, have become alarmed and have begun demanding that the Soviet Union all but pay a 'political price' for the 'right' to hold such a conference in Moscow. Such attempts to capitalize on the urgent and important subject of humanitarian contacts cannot help but cheapen the solemn assurances that many Western politicians regularly give concerning their commitment to human rights ideals...." Izvestiia, 6 February 1987, p. 5 in Current Digest of the Soviet Press, Vol. 39, no. 6 (11 March 1987), p. 16. Although it is still too early to evaluate, the proposal for a Moscow human rights conference was followed by Soviet calls for "a new political thinking in international affairs" in which human rights should become "a mainstay" of the system of international security. This is as close as Soviet spokespersons have come to arguing that internal improvements in human rights must precede greater cooperation in the military, economic and political spheres. Yuryev, Dmitri, "Vienna: Building a Common European Home," International Affairs (Moscow), Vol. 7 (July 1987), pp. 107-8. Also

see an interview of Yuri Kashlev, head of the Soviet delegation in Vienna in "The Outcome of the Vienna Meeting Depends on the Political Will of the West," International Affairs, Vol. 9 (September 1987), pp. 68-72. Kashlev stated, "The representatives in Vienna often say it is not the document being adopted but practical deeds that are most important to them. In the USSR considerable changes have been effected in the humanitarian sphere since November last year, when the Vienna meeting began--a fact which is recognized by all the participants in the meeting. the policy of openness in Soviet society has led to a wider circulation of information from foreign sources. The problems concerning dissidents, including Academician Sakharov, have been settled, and a large group of persons for whom the West interceded with the Soviet leadership have been pardoned. The procedure of entry to, and exit from the USSR has been simplified, the number of persons leaving the country to reunite with their families abroad has reached a record-high number and the jamming of BBC and Voice of America broadcasts has stopped." p. 72. It is not yet possible to determine if this was simply clever use of the expanded dialogue created by the momentum of the Helsinki process or the beginning of a "restructured" Soviet foreign policy. The former seems more plausible. The idea of the conference was reiterated again in December 1987. See, Pravda, 11 December 1987, p. 5 in Current Digest of the Soviet Press, Vol. 38, no. 50 (14 January 1987), p. 22.

51. Eggleston, Roland, "Free Flow of Information," Interview with the Chairman of WGBH (Boston Public Television), Budapest, 1 November 1985 in Mastny, pp. 317-18.

52. Pravda, 26 November 1985, p. 4 in Current Digest of the Soviet Press, Vol. 37, no. 47 (18 December 1985), p. 26.

53. Implementation of Helsinki Final Act, Special Report No. ___, Twentieth Semiannual Report, October 1, 1985 - April 1, 1986, Bureau of Public Affairs, US Department of State, Washington, DC, p. 4.

54. Ibid.

55. For an unapproved final draft see, Western Draft Summary of the Results of the Budapest Meeting 1985 (25 November 1985) in Mastny, pp. 374-9. For more specific descriptions of the various cultural exchanges, see The New York Times, 11 January 1986, p. 3; 24 January 1986, p. 16; 20 April 1986, Sec. II, p. 1; 1 May 1986, Sec. II, p. 10.

56. Horowitz's concert was broadcast live in the US from Moscow. The New York Times, 21 April 1986, p. 1.

57. Summaries of these meetings from the US perspective can be located in, Phase I of the Vienna Review Meeting of the Conference on Security and Cooperation in Europe, November 4 - December 20, 1986, Commission of Security and Cooperation in Europe, 100th Congress, First Session, Washington: U.S. Government Printing Office, 1987; Phase II of the Vienna Review Meeting of the Conference on Security and Cooperation in Europe, January 27 - April 10, 1987, Commission on Security and Cooperation in Europe, 100th Congress, First Session, Washington: U.S. Government Printing Office, 1987. See also, Rakhmaninov, Yuri, "Vienna Meeting Must Bear Fruit," International Affairs (Moscow), Vol. 2 (February 1987), pp. 119-125.

58. For example, Seweryn Bialer wrote, "It is by now clear that he is a determined reformer who could potentially change the Soviet system as much as only Stalin did in the past." U.S. News and World Report, Vol. 103, no. 16 (19 October 1987), p. 42. Also, Hyland, William G., "The Gorbachev Succession," Foreign Affairs, Vol. 63, no. 4 (Spring 1985), pp. 800-9. The New York Times, 25 December 1986, p. 3.

59. Izvestiia, 12 December 1987, pp. 1-2 in Current Digest of the Soviet Press, Vol. 39, no. 52 (27 January 1988), p. 14; Izvestiia, 13 December 1987, pp. 2-3 in Current Digest of the Soviet Press, Vol. 39, no. 50 (13 January 1988), p. 21.

60. This quote was from a new column labelled, "Speaking Out About Openness," written by Izvestiia staff editor for law and ethics, A. Druzenko. See, Izvestiia, 23 March 1985, p. 3 in Current Digest of the Soviet Press, Vol. 37, no. 13 (24 April 1985), p. 1. In an earlier issue of Izvestiia, Druzenko quoted Chernenko in his column. The former General Secretary stated, "In short, we favor comradely discussion and debates, but debates, of course, that are intelligent and businesslike and that are capped with practical proposals." Izvestiia, 19 January 1985, p. 2 in Current Digest of the Soviet Press, Vol. 37, no. 3 (13 February 1985), pp. 18-19.

61. See Gorbachev speech entitled, "Initiative, Organization and Efficiency" to executive officers of industrial associations and enterprises, managers of collective farms, leaders of production brigades, specialists

and scientists in Pravda, 12 April 1985, pp. 1-2 in Current Digest of the Soviet Press, Vol. 37, no. 15 (8 May 1985), pp. 1-6. See also, Pravda, 28 March 1985, p. 2 in Current Digest of the Soviet Press, Vol. 37, no. 13 (24 April 1985), pp. 7-8. This article outlines the ongoing "cleansing" of the Party membership.

62. Pravda, 11 December 1984, pp. 2-3 in Current Digest of the Soviet Press, Vol. 36, no. 50 (9 January 1985), p. 4. Also see Gorbachev's speech upon the death of Chernenko in Pravda, 14 March 1985, p. 1 in Current Digest of the Soviet Press, Vol. 37, no. 10 (3 April 1985) pp. 10-11.

63. "Address on French Television, 30 September 1985" in Gorbachev, Mikhail S., A Time For Peace (New York: Richardson and Steirman, 1985), p. 243.

64. Pravda, 26 February 1986, p. 1 in Current Digest of the Soviet Press, Vol. 38, no. 8 (26 March 1986), p. 26.

65. Pravda, 16 October 1985, pp. 1-2 in Current Digest of the Soviet Press, Vol. 37, no. 42 (13 November 1985), p. 5.

66. Ibid.

67. Pravda, 26 February 1986, p. 1 in Current Digest of the Soviet Press, Vol. 38, no. 8 (26 March 1986), p. 24.

68. Ibid.

69. Ibid. See also "Draft Party Program" in Pravda, 26 October 1985, pp. 1-7 in Current Digest of the Soviet Press, Vol. 37, no. 44 (27 November 1985), p. 3.

70. "Draft Party Program" in Ibid., p. 17. See also, The New York Times, 26 February 1986, p. 11.

71. Gorbachev stated: "The diverse views expressed at the conference have the principal unifying idea--it is necessary to move in all undertakings from the individual, to proceed from the interests of the people and to assert the humanistic values of socialism. This will guarantee a pure moral atmosphere in society, the intensive work of creative thought and the genuine flourishing of culture." Ibid., 2 July 1988, p. 6.

72. Beglov, Spartak, "The New Political Thinking and Present-Day Realities," International Affairs (Moscow), Vol. 11 (November 1987), p. 58.

73. "Creative Effort of the People, A Report to the All Union Scientific and Practical Conference in Moscow, 10 December 1985" in Gorbachev, A Time For Peace, p. 34.

74. Pravda, 14 December 1984, pp. 2-3 in Current Digest of the Soviet Press, Vol. 36, no. 50 (9 January 1985), p. 6.

75. Gorbachev, A Time For Peace, p. 3.

76. Shifter, Richard, "The Promise and the Limits of Glasnost," Current Policy No. 1017, Bureau of Public Affairs, US Department of State, Washington, DC, 1987. See also, Shifter, Richard, "The Semantics of Human Rights," Current Policy No. 1041, Bureau of Public Affairs US Department of State, Washington, DC, 1988.

77. Time, Vol. 131, no. 1 (4 January 1988), p. 16.

78. "Speech in the British Parliament, 18 December 1984" in Gorbachev, A Time For Peace, p. 44.

79. "Meeting With Representatives of the British Business World, 20 December 1984" in Ibid, p. 51.

80. "Address to the French Parliament, 3 October 1985" in Ibid, p. 272.

81. "Report to the Plenary Meeting of the Central Committee of the Communist Party of the Soviet Union, 23 April 1985" in Ibid, p. 87.

82. For an American impression of the appointment see, The New York Times, 21 May 1986, p. 3.

83. Rakhmaninov, p. 123. Probably in an effort to show that many citizens in the US agreed with this viewpoint, the highest ranking Soviet trade official in the US, Yuri D. Shcherbina, announced in October 1986 that representatives from fifteen US companies had proposed creating joint ventures with the Soviet Union knowing full well that this would help strengthen the Soviet economy. Ibid, 24 October 1986, Sec. IV, p. 20.

84. Pravda, 6 November 1986, p. 5 in Current Digest of the Soviet Press, Vol. 38, no. 45 (10 December 1986), pp. 8-12.

85. "Address on French Television, 30 September 1985" in Gorbachev, A Time For Peace, p. 254.

86. Twenty-second Semiannual Report, p. 2.

87. Ibid.

88. Ibid, p. 4.

89. The New York Times, 20 December 1986, p. 1.

90. Ibid.

91. Ibid, 25 December 1986, p. 3; 28 December 1986, p. 14.

92. A copy of Sakharov's letter was clandestinely sent to the West and was reprinted in U.S. News and World Report, Vol. 100, no. 7 (24 February 1986), pp. 30-1.

93. The announcement that Bonner was allowed to leave the Soviet Union for medical treatment in the West was revealed in The New York Times, 1 November 1985, p. 1. However, Bonner did not reveal her promise to avoid Western reporters during her treatment, until later in November during a telephone discussion with her children in the US. Ibid, 21 November 1985, p. 13.

94. Ibid, note 86.

95. Ibid, 21 December 1986, p. 1.

96. Ibid.

97. Ibid, 10 December 1986, p. 3.

98. In the letter, Marchenko called his treatment by Soviet authorities "an assembly line to annihilation." Phase I of the Vienna Review Meeting of the Conference on Security and Cooperation in Europe, p. 8; The New York Times, 24 September 1986, p. 31. When the US representatives to the Vienna meeting requested a minute of silence in honour of Marchenko, the Soviet and Bulgarian delegates walked out. Ibid, 13 December 1986, p. 9.

99. Ibid, 21 January 1984, p. 4.
100. Ibid, 30 December 1986, p. 3.
101. Ibid, note 89, pp. 29-36.
102. Izvestiia, 6 February 1987 in Current Digest of the Soviet Press, Vol. 39, no. 6 (11 March 1987), p. 16.
103. Among the groups which are most active in publicizing trends in Soviet Jewish emigration (both governmental and nongovernmental) are the following: National Conference on Soviet Jewry, Combined Jewish Philanthropies of Greater Boston, Hebrew Institute of Riverdale, Jewish Defense League, Congressional Caucus on Soviet Jewry and the Committee of 21 (composed of wives of US Senate and House members).
104. The New York Times, 15 June 1985, p. 2.
105. Ibid, 16 May 1985, p. 14.
106. Ibid, 28 September 1985, p. 8.
107. Ibid, 25 April 1985, p. 8.
108. Ibid, 1 November 1986, p. 1.
109. Ibid, 7 January 1986, p. 5; 16 April 1986, Sec. II, p. 8.
110. "Speech at a Meeting with the Collective of the Plant Named After G.I. Petrovsky, The City of Dnepropetrovsk 26 June 1985" in Gorbachev, A Time For Peace, p. 159. See also, "Mikhail Gorbachev Meets With Prominent US Businessmen," 10 December 1987 in USSR-US Summit: Documents and Materials, Washington, December 7-10, 1987, (Moscow: Novosti Press Agency, 1987), pp. 108-111, hereafter cited as USSR-US Summit. In his speech to the American businessmen, Gorbachev stated: "You have, of course, taught us some lessons over the past decade and we have become cautious as well. It is no longer so easy to draw us into this cooperation. I told this to the President as well. When we were deprived of 17 million tons of grain in two days--which was in the middle of winter--and we had to look for ways of obtaining that grain (you know that this happened when the embargo was declared), this led us to the conclusion that we cannot be oriented toward the United States alone. It turned out that America could use economic ties to take us by the throat....We have

learned our lessons and shall not allow our national interests to be exposed to another blow." (pp. 109-10).

111. In an interview with American news broadcaster, Tom Brokaw, Gorbachev reiterated a longstanding Soviet position. He claimed that all the individual cases were "consider[ed] very thoroughly, and this is well known by the Congress, by the President. And we'll continue in a humane spirit to resolve every individual case, but within the framework of our laws. You should not, as we say try to go into another man's monastery with your own charter. We have our democratic state based on a Constitution and our laws." "Mikhail Gorbachev Interviewed by the American Television Company, NBC," USSR-US Summit, p. 87.

112. The New York Times, 16 February 1986, p. 1.

113. Ibid, 24 September 1985, p. 31.

114. Ibid, 25 May 1986, p. 15.

115. Along with the meetings continuing the Helsinki process, there have been three recent summit meetings in the following cities: Geneva (19-20 November 1985), Reykjavik (11-12 October 1986) and Washington, DC (8-10 December 1987). To cross-check with emigration announcements see The New York Times, 3 April 1985, p. 9; 1 November 1985, p. 1; 16 November 1985, p. 1; 20 January 1986, p. 2; 28 May 1986, p. 1; 14 September 1986, p. 14; 5 October 1986, p. 16.

116. In this respect Gorbachev has stated that "today we emphasize that we are all part of one and the same civilisation. We are interconnected--through science and technology, through the environment, through the challenges that are growing and dictating to us that we must be united in our thoughts and actions. Isn't it the duty of intellectuals to communicate this perception to the peoples? I think this is the duty of intellectuals...[and] people in the arts [who] should make their ethical contribution to politics." "Mikhail Gorbachev Meets With American Artists, Intellectuals and Scientists at the Soviet Embassy," 8 December 1987, USSR-US Summit, p. 96.

117. "Mikhail Gorbachev Talks to US Media Executives at the Soviet Embassy," 9 December 1987, Ibid, p. 106.

118. The New York Times, 8 November 1986, p. 1.

119. Emigration could still be denied according to the new regulations for, among other reasons, familiarity with state secrets; protection of social order, health or morals; protection of the basic rights and legal interests of other citizens; responsibilities and obligations owed to the state or specific organizations; pending criminal charges; inappropriate invitations (especially if the invitation was sent from an individual who violated Soviet procedures when he left); and inaccurate information provided in an application.

120. The New York Times, 15 February 1987, p. 1.

121. Free Press International, International Report, Vol. 8, no. 7 (25 March 1988), p. 7.
Der Spiegel

122. Carter, Jimmy, Keeping Faith: Memoirs of a President (New York: Bantam, 1982), pp. 17-18.

123. The New York Times, 12 February 1986, p. 1.

124. The Economist, 4 October 1986, pp. 21-22 and The New York Times, 16 October 1986, p. 9.

125. Arbatov, Georgi and Oltmans, Willem, The Soviet Viewpoint (New York: Dodd, Mead and Company, 1983), pp. 145-6, 161.

126. U.S. News and World Report, Vol. 104, no. 20 (23 May 1988), p. 30.

CONCLUSION

This thesis has shown that after more than a decade of follow-up conferences and discussion, representatives of the Soviet and American governments still disagree on the substance and exercise of human rights as presented in the Helsinki Final Act and its accompanying documents. Disagreements on the purpose and content of the Final Act stretch back to 1954 when the first Soviet call for a conference was delivered by Soviet Foreign Minister Vyacheslav Molotov. The lack of consensus on the reason for holding the CSCE has been an inherent weakness in the Helsinki process.

An understanding of the long-term differences between Soviet and American representatives regarding the Helsinki process may limit unexpected confrontations over human rights, which could ultimately affect other issues of foreign policy, or discourage premeditated assaults on Soviet representatives. While a grandiose international accommodation on human rights is unlikely, further studies of the CSCE may improve the quality and reduce the intensity of the debate over human rights. The analysis of official documents, written personal accounts and interviews conducted here is a first step towards a deeper

understanding of the Helsinki process; much more work must still be done, especially regarding the views in behaviour of representatives of smaller nations participating in the Helsinki process. As diplomats, interpreters and reporters write more about their experiences during the closed sessions of the CSCE and the follow-up conferences, it may be possible to assemble a clearer picture of the events in Geneva, Helsinki, Belgrade, Madrid, Ottawa and elsewhere. More information will enhance the potential for political scientists to utilize better the Helsinki process in their efforts to understand many aspects of international relations.

A crucial and recurrent issue in the Helsinki process has been the sovereignty of the participating nations and their entitlement to apply the provisions on human rights to their own political and legal systems without outside interference. The Carter administration's attempts to force an American interpretation on Soviet domestic policy-makers failed and the paramount right of sovereignty was upheld. Even though unofficial groups in the Soviet Union adopted a more "Western" interpretation of Principle Seven and Basket III and fuelled international debate over the Final Act, the Soviet leaders relied on the principle of sovereignty and did not sanction the involvement of the CSCE participants in Soviet law or

politics. Soviet commentators still reject emphatically the notion of international citizenship and they will not accept a broad European passport system of the type recently initiated by the governments participating in the European Economic Community.

But what is the relationship between ongoing Soviet interpretations of the Final Act and Gorbachev's commitment to perestroika and glasnost? While definitive judgements cannot be made, it is possible to make a number of observations related to the Helsinki process and the debate over human rights. First, despite the hyperbole in the Western media over glasnost, Gorbachev does not seem poised to redefine human rights in the follow-up conferences of the Helsinki process or within the Soviet political system. Despite recent administrative and procedural changes, and notwithstanding earlier modifications in the Constitution, the official Soviet view of human rights has remained consistent. Even if Gorbachev proclaims new "rights" or "privileges," observation and interpretation must centre more on implementation than on the declaration of such changes. More statements on this topic may be forthcoming from Gorbachev, but it is too early to determine the impact of Gorbachev's attempts to increase "openness" in the Soviet political and economic system. Should any new policy statements emanate from CSCE

follow-up meetings, verification will be even more difficult to achieve based on past experience with the Final Act.

Second, comfortable that the territorial and ideological status quo has been confirmed in Europe, Gorbachev and future Soviet leaders are likely to accentuate this "new" reality through further agreements within the Helsinki process. Negotiations are continuing in Stockholm on confidence and security-building measures and the recent treaty between the United States and Soviet Union reducing intermediate nuclear forces in Europe, although outside the Helsinki process, reinforces further the permanence of borders in Central and Eastern Europe. Many other conferences have grown out of the Final Act's follow-up procedure (discussed in detail in Chapter Six) which have allowed official Soviet representatives to emphasize both their interpretation of the Final Act and their perception of the future of the Helsinki process. Observers of the new policy of glasnost' should consider if it is intended to lead to more open discussion about foreign policy or debate about the differences and similarities between Soviet and West European societies. Certainly Soviet leaders have not called for a conference on human rights in Moscow to proclaim their adoption of West European interpretations of human rights. It is more

likely that they desire a conference to solidify and further justify the differences.

Third, if indeed the superpowers are bound to further competition, then arms limitations or reductions agreements are critical for they shift the rivalry to the ideological or economic sphere rather than to the more dangerous and expensive realm of the military. Even though he recognizes the symbiotic relationship between ideological and military competition, Gorbachev does seem more concerned with internal systemic reform than with the expansion of Soviet military and political influence abroad. While the United States may be the pre-eminent military adversary for the Soviet leadership, other nations, such as China, have become models of political and economic reform that challenge even further the wisdom and authority of the Marxist-Leninist ideologues in Moscow. Gorbachev's emphasis on restructuring represents his desire to explore the potential for improvement in the Soviet system and to regain the status for the Soviet Union as a leading nation in progressive socialist development. A central aspect of the "Helsinki process" is also to lead by example rather than to merely accentuate the failings of others.

Fourth, to demonstrate that the Soviet Union is at a minimum in compliance with the Final Act, Gorbachev has

used a number of very practical policies which, although of questionable value for human rights in the long-term, provide the appearance of humanitarianism. The use of spy/dissident exchanges, the manipulation of emigration figures, granting of broader "freedoms" for Andrei Sakharov, more open criticism of the past and increases in cultural exchanges all enhance Gorbachev's image as a leader who is more sensitive to the individual rights of Soviet citizens but, as discussed in the previous chapter, that perception is still premature.

Finally, the Helsinki Final Act has initiated a broad debate about the role of human rights in international relations. While Soviet and American representatives have most recently reiterated their commitment to the Helsinki process, they have not initiated major doctrinal revisions that would make their respective interpretations of the humanitarian provisions compatible. The controversial and public debate that has taken place since 1972 must be regarded as a healthy aspect of superpower competition, but it must also be realized that the tendency to link human rights with other issues has not, on the whole, improved the lives of the peoples of Europe or North America. There are no short-term solutions to the disagreements over human rights in the Final Act. For the future, the most astute participants and observers of the

Helsinki process would benefit from studying the long-term disagreements and they would best demonstrate the "Helsinki spirit" by examining their own record in living up to its criteria, rather than by harping on the failures of others.

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